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THE IMPACT OF THE DAVIS-BACON THRESHOLD ON SMALL BUSINESS CONSTRUCTION CONTRACTORS

HEARING

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT PROCUREMENT

OF THE

COMMITTEE ON SMALL BUSINESS

UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

THE IMPACT OF THE DAVIS-BACON THRESHOLD ON SMALL BUSINESS CONSTRUCTION CONTRACTORS

FEBRUARY 2, 1982

Printed for the use of the Committee on Small Business

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THE IMPACT OF THE DAVIS-BACON THRESHOLD ON SMALL BUSINESS CONSTRUCTION CONTRACTORS

TUESDAY, FEBRUARY 2, 1982

U.S. SENATE,
COMMITTEE ON SMALL BUSINESS,
SUBCOMMITTEE ON GOVERNMENT PROCUREMENT,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:35 a.m., room 424, Russell Senate Office Building, Hon. Don Nickles (chairman of the subcommittee) presiding.

Present: Senator Don Nickles.

Also present: Robert J. Dotchin, staff director; Alan L. Chvotkin, minority chief counsel; Bret Bernhardt, Senator Nickles' office; Kimberly A. Elliott, professional staff member; and Dorothy C. Olson, clerk.

STATEMENT OF HON. DON NICKLES, A U.S. SENATOR FROM THE STATE OF OKLAHOMA, AND CHAIRMAN, SUBCOMMITTEE ON GOVERNMENT PROCUREMENT

Senator NICKLES. Good morning.

Today we'll begin consideration and hear testimony on the impact the Davis-Bacon Act, particularly as it relates to small business and small business concerns.

The Labor Subcommittee, which I also chair, had 2 days of hearings on the overall impact of the Davis-Bacon Act; but not specifically as it relates to small businesses.

As testimony was brought before the Labor Subcommittee, many individuals alluded to the negative and detrimental impact of the so-called prevailing wage laws as they apply and as they have impact on Davis-Bacon. Many testified that businesses have said that Davis-Bacon has become, "a thorn in the flesh to small business."

I believe that small business and the Davis-Bacon Act just don't mix. By refusing to modernize the 50-year-old Davis-Bacon statutes, Congress continues to keep small businesses from effectively competing with their larger counterparts for Government contracts.

This morning this Subcommittee on Government Procurement will be analyzing and receiving testimony from many individuals and experts in the field to determine exactly what impact Davis-Bacon statutes does have on their ability to compete for Government contracts.

Among other things, the act requires a Federal contractor's labor wage rates to reflect the prevailing wages, which often equates to the highest wages in a particular area.

According to the National Federation of Independent Businesses, thousands of small businesses don't even bother attempting to get a Federal contract because of the restrictive and many times burdensome nature of Davis-Bacon.

Take, for example, the following situations which were recently revealed:

In September, a small company in Richmond, Va., was the only firm to bid on a project to insulate a local elementary school with interior storm windows. Under a funding arrangement with the Federal Government, the city officials were allowed to use Federal funds to pay for a portion of the work. Because the funding amounted to more than $2,000, the contracting company was required to comply with Davis-Bacon.

The four-employee firm had a bid of $42,000 to do the job. Under Davis-Bacon, they were required to pay a total of $58,000 to do exactly the same job, and to top it off, the company was denied the job because the Davis-Bacon contract amounted to more money than had been set aside in Federal funds.

So the net result was a job that wasn't completed, a business that wasn't able to contract, and a school that wasn't able to afford the contract, and so the net effect was zero. If the school does eventually put in the school windows, then certainly the taxpayers will have to pay the additional costs, in this case $16,000 or in the neighborhood of 30 percent more than the original contract price.

The act is also having a punitive effect on many workers. I have today a letter, which I'll introduce into the record, from the Oil, Chemical and Atomic Workers International Union, Local 2-652, in Idaho Falls, Idaho. Gerald Oliver, the local president, writes that because of a reclassification, maintenance workers' jobs at the Idaho National Engineering Laboratory are now required to comply with Davis-Bacon statutes. He says, and I quote, "This $2,000 limit is being used by the trade unions to completely erode the jobs of long term maintenance unions such as the employees of OCAW Union working at the laboratory."

Mr. Oliver was invited to testify today, and indicated an interest to do so. We also later contacted the international union office in Washington and asked them to testify. Both declined the invitation.

I would like to enter Mr. Oliver's letter into the record.

These are just two examples of how the Davis-Bacon statutes have been applied across the country and has turned out to be very detrimental and punitive to small business concerns, and also to employees of small businesses. I feel small businesses must be given an equal footing when competing for Federal contracts.

I look forward to working together with all interested groups to see if we can make some reasonable approach that can be accepted and actually implemented into legislation this year to make the changes that are necessary.

I am optimistic from visits with many of my colleagues who have previously stated their opposition to a total change in the Davis-Bacon statutes. They have also indicated an interest and willing-

ness to cooperate with movement in the threshold and possibly some other regulatory changes in Davis-Bacon.

[Material follows:]

Oil, Chemical and Atomic Workers
International Union
208-522-0972

ATOMIC WORKERS/LOCAL NO. 2-652

P. O. BOX 659
IDAHO FALLS, IDAHO 83401

December 21, 1981

Senator Don Nickles
Russell Senate Office Building
Room 125
Washington, D. C. 20510

Dear Senator Nickles:

I am writing you again about a critical issue. The issue being the drastically outdated $2,000 limit on the Davis Bacon Act. Senator this $2,000 limit is being used by the Trade Unions to completely erode the jobs of long term Maintenance Unions such as the employees of the Oil, Chemical and Atomic Workers Union working at the Idaho National Engineering Laboratory in Idaho.

Not only is the limit being used, but it is very effective and now the Trades Unions are coming on site and doing work that we have performed for the past 30 years. I feel the time has come for the Senate and Congress to please find the time and efforts to eliminate the obsolete $2,000, limit and update it to the present day inflationary standards.

Senator, the members of OCAW have faithfully given 100% for the past 30 years to help make every project, no matter how large or small at the INEL, a success and I feel the records show this. We have always been there when we were needed. We are always willing to help and now the time has come when we need help. There is a way and that is getting support for your much needed amendment updating the obsolete $2,000 limite to $250,000.

Senator, we greatly appreciate your intentions and efforts and will do everything in our power to gain support for your amendment. We know the Davis Bacon Act was never designed to take away jobs, but that is how it is being used.

Sincerely,

ATOMIC WORKERS LOCAL 2-652

Gerald P. Oliver
President

GPO:js

Senator NICKLES. Today we have a fine group of panelists and experts in the field to discuss this with us. We have many witnesses and as we also have a busy legislative day on the Senate floor, I will repeat my request, as given to all of the panelists initially, that they keep their oral testimony to 5 minutes. Your written testimony will be entered into the record as if read, so I prefer hearing your general comments and the highlights of your testimony, if you would, please.

We have read your testimony for the most part. I will say I fell asleep with some of it last night, but we have taken a look at it. We are very interested in your input and your ideas for how we can change this law in a way to better assist and aid small business firms in competing for Federal contracts and, ultimately, save taxpayers some money.

Our first witness today will be Hon. Frank Swain, Chief Counsel for Advocacy of the Small Business Administration.

Mr. Swain, we welcome you. I have read your testimony and appreciate very much the intensive amount of work that you've done in preparation not only for this committee but also in preparation for the DOL in their request for comments on the changes they've brought out.

Welcome, Mr. Swain.

STATEMENT OF HON. FRANK S. SWAIN, CHIEF COUNSEL FOR ADVOCACY, U.S. SMALL BUSINESS ADMINISTRATION

Mr. SWAIN. Thank you very much, Mr. Chairman.

I'd like to introduce Mr. Guy Steuart of my staff, who has been working particularly on this issue.

As Chief Counsel for Advocacy of the U.S. Small Business Administration, I particularly appreciate the opportunity to appear in front of this committee, which is the committee that is my oversight committee and confirmed me in this position.

As you're aware, specific legislation authorizes the Office of the Chief Counsel for Advocacy to represent the views and interests of small business where actions, regulations, or decisions of Federal agencies adversely affect small business.

Section 206 of the act authorizes transmission of these views directly to Congress, and I wish to emphasize that the comments that I have this morning and the comments in this statement do not necessarily represent the views of the Administration, and that my appearance here this morning should not be construed by anybody as any signal from the Administration on this one way or the other. I appear here this morning as a representative of the small business community.

One of the major concerns of our office is the situation in which Federal regulatory practices become a particular constraint for small business. Now, there have been a number of studies which have indicated that in the aggregate small business is particularly burdened by regulation, because when the Federal Government imposes what basically is an external, artificial cost by requiring a business to comply with a set of rules, a smaller business without economists, attorneys, accountants, industrial hygienists or whatever on staff has a more difficult time and it represents a larger

proportion of that small business' assets and cash flow to comply with that regulation.

By the same token, we're particularly concerned in the Office of Advocacy about the level of small business involvement in Federal procurement. I think it's no secret that in the present environment it's not likely that there will be a lot of new, expensive programs created for small business. We regard access to Federal procurement as one of the real keys to potential success for small business.

You know, Senator, the Federal Government purchases about $110 billion a year worth of goods and services from the private sector. About 23 percent of that goes to small business. That's not a very large proportion, given the level that small business plays in the economy, and so we're particularly concerned when we feel a set of Government regulations or rules inhibit the access that small business has to Federal procurement, and that's certainly the situation with Davis-Bacon.

There's a lot of other testimony in other forms, I understand, that tries to track the inflationary record of Davis-Bacon, and we in fact give one example in our statement this morning on how we feel it was inflationary on one project that we were told about.

But the real problem, as far as Davis-Bacon and small business is concerned, is that Davis-Bacon represents a real barrier to small businesses doing business with the Federal Government.

I've talked to a number of small business people, and, frankly, I'm very surprised at their level of awareness of Davis-Bacon, because one would think that only people in the construction industry know about it, when in fact there are a lot of small business people who know about it. Opinion is very, very consistent in the small business community that Davis-Bacon is one of those Federal practices which, whether justified or not at one time, has certainly outlived most of its justification and is clearly in need of reform.

So it's to that point that we've become involved in the Davis-Bacon issue, trying to gather the experiences of small business people with Davis-Bacon, and a couple of them are set out in the testimony today.

In an attempt to summarize, I will simply say that most small contractors regard Davis-Bacon as sometimes such an evil that it's not even a necessary evil. That is to say, they'd rather not do business on smaller Federal construction contracts, than go through the redtape that's required by the Davis-Bacon Act, and set up a second level of wages that's required by the act when workers are involved in a particular Federal contract.

That certainly doesn't help the bookkeeping of the firm. It clearly doesn't help the firm morale when you have a series of workers who are paid one wage rate one day and then a different wage rate the next day for reasons that they don't particularly understand and, in fact, the contractor may not particularly understand.

Now, the Labor Department in August set out a series of proposed changes to the regulations involving the Davis-Bacon Act, and I think that, by and large, those proposed changes are a welcome recognition that a serious look ought to be taken at the statute and at the regulations. We commented on the changes, and the comments are attached to our testimony this morning.

In looking at the changes, the first question I ask is: Is this the sort of regulation that the Regulatory Flexibility Act applies to? And, of course, as you know, the Regulatory Flexibility Act is the law that the Congress passed that says that an agency has to take a look at its regulations and change the regulations to make the effect of the regulations less burdensome on small business, if it possibly can.

As far as Davis-Bacon is concerned, there are some changes that were proposed that are very helpful to small business, but the key question involving the wage determination that I asked my staff and other people who were experts in the industry was: Under the Regulatory Flexibility Act, why can't we just exempt those smaller projects from Davis-Bacon provisions, so that the rule becomes effective if you're involved in a major Federal project? You still have to do business the Government's way and you have to comply with all its rules and regulations, but I think it's time the Government recognizes that for the smaller project, the impact of the Davis-Bacon Act is more of a negative impact than a positive impact on wage rates.

The opinions seem to be that the Labor Department could not, by administrative action, change the exemption on the Davis-Bacon Act. So that's why we included in our comments a statement that the Davis-Bacon Act is an appropriate subject for legislative discussion, and that the Labor Department changes were certainly going in the proper direction, but in order to really meet some of the problems that small businesses have, you have to look at legislative solutions as well as administrative solutions.

And I think this is the key to the issue, because whenever we're looking at Federal laws or Federal regulations, the complaint here sometimes in Congress is that the bureaucrats run away and make decisions that the legislators really ought to be making. I think there is an opportunity for the legislators to make a decision on the Davis-Bacon Act, if that's the reigning opinion here in the Congress.

We did set out some information in the testimony to underscore the point that we do think the $2,000 exemption is very outmoded. The testimony sets out the fact that you can't even build a corner office with partitions and a ceiling for a senior level Federal official without going way over the $2,000 level, and I would be prepared to say that there are probably a lot of other very mundane-sounding Federal contract projects that you couldn't do for $2,000 in this day and age.

So we really feel that the Congress ought to take a serious look at this issue in concert with the Labor Department, and the changes they propose to make administratively.

But the Davis-Bacon Act clearly has a significant impact on small business, and one of the worst problems, I think, is that the impact it has is not only on the individual small business that may or may not perform a Federal contract, but also on the Government as a whole, because if you've got a law that deters certain businesses from getting in and competing, then that lack of competition means the Federal Government has probably got a more costly product than it might otherwise if there were greater competition among small businesses for a particular project.

I appreciate the attention that you and this subcommittee are giving to this issue, and I'd be happy to try to respond to any questions you might have.

Senator NICKLES. Thank you, Mr. Swain.

[The prepared statement of Mr. Swain follows:]

SBA U.S. Small Business Administration Washington, DC 20416

STATEMENT OF
FRANK S. SWAIN, CHIEF COUNSEL FOR ADVOCACY
U.S. SMALL BUSINESS ADMINISTRATION
BEFORE THE
SUBCOMMITTEE ON GOVERNMENT PROCUREMENT
OF THE
U.S. SENATE SMALL BUSINESS COMMITTEE
FEBRUARY 2, 1982

MR. CHAIRMAN AND SUBCOMMITTEE MEMBERS:

As the Chief Counsel for Advocacy of the U.S. Small Business Administration, I thank you for the invitation and opportunity to comment on the problems afflicting small businesses as a result of the Davis-Bacon Act. As you are aware, specific legislation, Public Law 94-305, 15 U.S.C. Section 634c, authorizes the Office of the Chief Counsel for Advocacy to represent the views and interests of small business where actions, regulations, or decisions of Federal agencies adversely affect small business. Section 206 of the Act authorizes transmission of these views directly to Congress. I wish to emphasize that these comments are my own and do not necessarily represent the views of the Administration.

One of the major concerns of the Office of Advocacy is government procurement and, most importantly, the role of small business in government

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contracting. The Office of Federal Procurement Policy (OFPP) estimates that currently the government contracts for $110 billion worth of business per year with the private sector. Of this amount, about 23 percent goes to small firms. Small businesses comprise over 90 percent of private enterprise and account for 38 percent of the gross national product. Obviously, the sum of government procurement in which they are engaged is woefully inadequate. The Federal government must make every possible effort to tap the efficient productive resources of this nation's small businesses.

The Davis-Bacon Act is one factor contributing to this inequality. Because it makes more difficult small business' participation in Federal contracts and over-regulates those small firms who engage in Federal work, this statute is an ideal place to start when eliminating needless government interference in the function of free markets.

Mr. Chairman, my statement will show the adverse effects of the Davis-Bacon Act on small construction firms by illustrating with case studies the typical problems that arise as a result of the Act. Additionally, I will very briefly discuss the economic consequences of the Act and recommend modifications that would lessen the small business' burden of doing construction work for the government.

There are 60 statutes 1/ under which Davis-Bacon regulations must be followed, including: Urban Growth and New Community Development Act of 1970; Housing and Urban Development of 1965; Federal Highway Act of 1968;

1/ 46 Fed. Reg. August 14, 1981, pp. 41458-41459, 1981.

State and Local Fiscal Assistance Act of 1972; Elementary and Secondary Education Act of 1965; and the Public Works and Economic Development Act of 1965. The list goes on and on to include what amounts to $32 billion for FY 82 of direct Federal and Federally assisted construction contracts above the current $2,000 threshold, according to OMB figures.

Since my appointment as Chief Counsel for Advocacy, I have been in contact with small business owners across the country who cite the Davis-Bacon Act as a prime example of a law which has outlived its usefulness and has perpetuated a set of inflexible, inflationary rules which do not achieve any tangible benefit to society. Designed to prevent the importation of cheap construction labor into communities during the Depression, the Act today no longer bears any relevance to its intended purpose. Rather than protecting an economically vulnerable locality, the Act causes the government, through interference in normal market wage practices, to overspend from $400 to $900 million 2/ per year on public construction projects at the expense of private construction workers, taxpayers, and the economy in general.

The subject of these hearings is effects of the Davis-Bacon Act on small business, and there is good reason to make this inquiry. Of the 447,273 construction establishments recorded by the Commerce Department in 1979, 434,840 employed less than 50 workers. 3/

2/ R.S. Goldfarb - J.F. Morall, "The Davis-Bacon Act: An Appraisal of Recent Studies," Industrial and Labor Relations Review.

3/ U.S. Department of Commerce, 1979 County Business Patterns.

Clearly, the construction industry is labor intensive and highly dominated by smaller firms. The Davis-Bacon Act is economic regulation of an industry dominated by small business, and its impact should be carefully scrutinized.

As Chief Counsel for Advocacy, I do not believe that economic regulation of small business is justified, except in the most exceptional circumstances, where clear and important public policy considerations outweigh the effects of government intervention in the private sector. That the Act is inflationary is no longer seriously questioned. There are many well-known studies analyzing the impact of the Davis-Bacon Act on society and many of those analyses conclude that the Act inflated wages and productivity at a cost to our economy conservatively estimated at anywhere from $200 million to $2.5 billion. 4/

Those studies, of course, only reflect some of the obviously inflationary results occurring at local levels often involving small businesses and small governmental units. Gene Hales is County Engineer for Potawattamie County, Iowa. On October 14, 1981, he contracted with two builders: each

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4/ R.S. Goldfarb - J.F. Morall "Cost Implications of Changing Davis-Bacon Administration," Policy Analysis 1978 and "The Davis-Bacon Act: An Appraisal of Recent Studies," Industrial and Labor Relations Review January 1981; Council of Economic Advisors, "The Economic Consequences of the Davis-Bacon and Service Contract Acts," unpublished study 1979; Office of Management and budget, "Option Paper: Interagency Review of Contract Wage Laws 1979; A.J. Thieblot, "The Davis-Bacon Act, 1975.

to construct a bridge. One contractor was to build on the west side of the county, near Omaha, and the other was to construct a bridge on the east side, 20 miles away. Both projects were identical: thirty feet long, pre-tensed, pre-stressed concrete bridges, and contracted for on the same date. However, the bridge on the west side was built simultaneously with and adjacent to an Army Corps of Engineer railroad bridge. The Corps' bridge was built under Davis-Bacon regulations. The contractor building the county bridge, although not bound by Davis-Bacon provisions, nevertheless, paid his workers wages comparable to the Davis-Bacon rates in order to preserve crew morale. The cost to Potawattamie County for that bridge was $52.18 per square foot. Meanwhile, the builder 20 miles away, and not under the influence of Davis-Bacon rates, was able to build his bridge at a cost of $32.47 per square foot. The Country Engineer feels a good part of that 40 percent difference in construction costs can be traced to the Davis-Bacon wage differential.

But, in addition to its direct inflationary impact, Davis-Bacon has a more insidious effect. Because of its regulatory overhead and inconvenience, many small construction firms forego Federal work altogether. In general, the regulatory overhead for small firms is two to three times proportionately what it is for a larger firm. 5/ When small contractors get involved with Federal projects, especially smaller projects, they may find that regulatory overhead prohibitive.

5/ Battelle Human Affairs Research Centers, "Complying with Government Requirements: The Costs to Small and Larger Businesses." Seattle; August, 1981. Study completed for the U.S. Small Business Administration, Grant No. SA-1A-0004-01-0.

The most often heard cry from small construction firms concerns the Department of Labor's wage surveys. The methods used to determine a wage survey have never been very consistent. A builder from Odessa, Texas gave us the following example of Davis-Bacon inappropriateness. Last year the Darville Construction Company completed work on a senior citizen home in Odessa. The owner of the company claims that compliance with the Davis-Bacon paperwork requirements increased his overhead by as much as ten percent of the total project cost. He also stated that the wages he paid his employees averaged $2 to $2.50 per hour more than he customarily pays on private projects. He discovered that the higher wages were deemed prevailing because DOL considers Odessa to be within the same survey area as El Paso -- a city in which there is a high concentration of Federal construction and which is over 300 miles west of Odessa. The owner expressed his concern over paying unusually high, Federal wages to his employees only to have to pay them lower rates on private projects in order to remain competitive. Consequently, to keep the peace among his employees, he often passes up Federal contracts. He figures the foregone headaches are worth the cost of limiting his company to private projects -- even in today's hard times.

Under Davis-Bacon, the Department of Labor classifies workers for the purposes of determining the prevailing wage for each job category. Many contractors expressed their concern over DOL's misclassification of their employees often resulting in higher than expected labor costs and labor

dissatisfaction. Larry Moses, owner of Carpenter Northeast of Minoa, New York, won a bid to re-roof a trailer at Fort Drum — a refugee re-location center seventy-five miles north of Syracuse. Knowing that the project fell under Davis-Bacon guidelines, Mr. Moses naturally raised his bid to take into account the higher wages he expected to pay as a result of the Act. Because there was no classification for trailer re-roofers, Mr. Moses did not know under what category the Department of Labor would classify his employees; nevertheless, he went ahead with the project. After much deliberation, the Department of Labor issued a prevailing wage rate based on the wages earned by regular roofers in Syracuse even though there is a wide discrepancy between the duties of a home roofer and trailer roofer. Mr. Moses had provided enough of a cushion to absorb the higher than anticipated wages, which averaged $5.50 per hour more than regular rates; nowever, when his other employees discovered the higher federal wages paid some workers, they felt both cheated and confused. Mr. Moses objects to the wage classification concept because it does not recognize merit, experience, or seniority among workers. In the future, Mr. Moses plans to avoid Federal projects because he believes the Davis-Bacon Act impedes incentive necessary to motivate employees to perform at their most competitive ability.

It is quite apparent from these experiences why there is such ambivalence towards the Davis-Bacon Act, not only by small construction contractors but also by mayors, project managers, town planners, and laborers and potential laborers who have been put out of work by this anachronistic law.

A more conspicuous result of the Act is polarization between firms which perform private work and those which only work Davis-Bacon projects. The government is put in the role of perpetuating a two class system consisting of those firms educated in the ways and means of the Davis-Bacon bureaucracy and those which refuse to open the Pandora's box. I believe that this is not the duty of a responsible government.

As evidenced by the above examples, the Act is not only inflationary but also discourages competition among firms within the construction industry. The inaccuracy of wage determinations is reason enough for contractors not to bid on Federal work. But that, coupled with the administrative paperwork and resultant disruption of crew morale imposed by the Act, outweighs any benefits from Federal construction projects in many small contractors' minds.

Proposed Regulatory Changes

The Administration has recognized that changes to the Act were necessary and for that reason, on August 14, 1981, proposed modifications to the regulations implementing the Act. The Office of Advocacy, on October 13, 1981, commented on those proposals, directing our suggestions to the prevailing wage concept, helper to journeymen ratio, and weekly payroll submissions. A copy of our comments is attached.

DOL proposed changing the prevailing wage determinations for each classification to define it as the single rate paid to a majority of workers performing similar construction in the same locality.

The Department of Labor made more than 18,000 determinations in 1981 and that leads to plenty of opportunities for error.

Although the proposed change creates a more equitable situation than the present "30 percent rule", a true prevailing wage, if it is to be established at all, should be determined by use of a weighted average method.

For instance, an area survey might reveal:

10 plumbers earned $15.00 per hour;
5 plumbers earned $12.00 per hour; and
4 plumbers earned $11.00 per hour;

under a weighted average the prevailing wage would be $13.33 per hour.

10 X $15 =	$150.00		$13.33
5 X $12 =	60.00	19	$254
4 X $11 =	44.00		
	$254.00		

However, from the same survey using DOL's "50 percent rule," the prevailing wage would be $15.00. I believe that a weighted average method is fairer and more representative of a prevailing rate because each worker's earnings are considered on an equal basis. Conversely, the "50 percent rule" would recognize only a majority of the workers for the purposes of determining all workers' prevailing rate.

DOL also proposed to recognize helpers for the purpose of determining a separate wage category. While the existence of helpers on construction sites has been known for years, recognition of the practice under

Davis-Bacon regulations was not proposed until this Administration. However, while classification of helpers is welcomed, the proposed limit allowing helpers on a project at a ratio of 1 helper per 5 journeymen, is not. As we outlined in our comments to DOL, small firms use more helpers than large firms and the rule does not reflect this practice. I hope that our comments will encourage DOL to re-evaluate their proposal and offer a more representative alternative.

DOL also proposed to consolidate the cumbersome payroll submissions into a simple certificate of compliance, since they cannot eliminate the requirement for reporting without a change in the statute. I support their attempts to minimize paperwork within the statutory limits.

Generally, we applaud DOL's direction and initiative to make administration of the Act more efficient and fair; nevertheless, these administrative changes are quite limited when considering the total impact of the Act on present day construction levels. For instance, Mr. Chairman, DOL proposed no change in the current $2,000 contract size for determining Davis-Bacon compliance requirements, an absurdly low figure in today's economy. We tried to equate that dollar figure established as a threshold by Congress in 1935 with an actual Federal project today. Our model was to engage in a contract to construct in an empty mid-rise building a sparse, corner ofice for a grade 15 employee.

The Government Services Administration (GSA) told us that a G.S. 15 is entitled to an office 15' X 15' and that standard height for ceilings is approximately 10 feet. The costs including labor using Mean's 1981 Building and Construction Cost Data follow:

4 gypsum fire proof drywalls	@$29.40 a running ft.	$1,764.00
Carpeting	$2.78 sq. ft.	625.00
1 Phone Jack		25.00
5 Electrical outlets		175.00
Door and frame		300.00
Accoustical tiled ceiling		146.25
2 Venetian blinds		150.00
Priming and painting		102.00
4 Flourescent lights		364.00
		$3,651.00

This total does not reflect rewiring costs, heating, ventilation, and air conditioning balancing; rubbish removal; handling and storage; inflation; 6/ or striking the existing office.

This example gives a rough idea of how $2,000 related to today's economy. For that reason, we suggested in our comments to the Department of Labor that the threshold, triggering the Davis-Bacon Act rules be raised thereby reducing the administrative costs involved in regulating small contracts. The effect of raising the threshold could be dramatic for the small contractors, but quite modest given the total amount of Federal construction.

6/ Conservatively estimating inflation for 1981 as 10%, total cost of doing the same job in 1982 would be $4,016.25.

I understand the Federal Procurement Data System (FPDS) shows that in FY '81 the Government issued over 7,900 Federal construction contracts worth more than $6 billion. Of that number, 4,650 were for between ten and $100,000, 7/ totalling more than $180 million. Federal construction is but one-fifth of all Federal and Federally-assisted construction combined. We estimate that if there were a similar proportional breakdown for Federally-assisted construction as there is for Federal construction, the number of contracts that would be exempted by raising the threshold to $100,000 would be close to 25,000 and valued at almost $1 billion. In a $250 billion a year industry this is not a very large amount. However, the relief provided small business would clearly stimulate competition for government contracts and begin to achieve real savings for the taxpayers on Federal construction projects.

CONCLUSION

Mr. Chairman, this concludes my statement. I hope that by illustrating with case studies the impact of the Davis-Bacon Act on small construction firms, I have been able to shed some light on their typical problems. Naturally, I do not believe anyone can discuss the problems of small business without mentioning their importance to our economy. To ignore their plight would be to do so at our own peril. Therefore, I firmly believe that raising the threshold for Davis-Bacon contract compliance to $100,000 would be welcomed relief to the hard-pressed construction industry, and the economy in general.
This, in conjunction with the other modifications mentioned, would greatly reduce the restraints on productivity imposed by the Davis-Bacon Act and would eliminate some needless government interference from the free market.

I would be happy to answer any questions you or other members of the subcommittee might have.

7/ FPDS tracks contracts only in excess of $10,000, and treats the others in one lump sum.

SBA U.S. Small Business Administration Washington, DC 20416

OCT. 13 1981

Mr. William Otter
Administrator
Wage and Hour Division
Employment Standards Administration
Department of Labor
Room S-3502
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Re: 29 CFR Part 1 Procedures for Predetermination of Wage Rates and 29 C.F.R. Part 5 Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction.

Dear Mr. Otter:

The Office of Advocacy of the U.S. Small Business Administration was created by Public Law 94-305 to advocate the views of small business before Federal agencies. In this role, we are submitting our comments on the Department of Labor's (DOL) proposed rules for predetermination of wage rates and labor standards provisions applicable to Federally-financed and assisted construction projects under the Davis-Bacon Act (46 F.R. 41444, August 14, 1981).

The Davis-Bacon Act of 1931 (the Act) was enacted to prevent contractors from importing cheap labor for use on Federal construction sites, thereby exploiting economically depressed areas. The primary objective of the Act was to be achieved through requiring payment of wages equal to or in excess of the "prevailing" wages in the community in which the Federal construction was to be performed.

However, through amendments and increased regulation, efforts to administer the law fairly and accurately have become increasingly difficult. It is now apparent that substantial, unproductive time is spent by contractors in complying with government regulation intended to implement the Act. Also, it is widely acknowledged that the "prevailing" wage determined under the Act is often excessive, contributing further to inflationary pressures. In recognition of the need to revise these outmoded requirements, DOL has proposed several changes which are intended to lessen the regulatory impact on Federal construction contracts.

In conducting its review of the Davis-Bacon Act regulations, DOL was required to perform an economic impact analysis on small business by the Regulatory Flexibility Act (RFA), which became effective on January 1, 1981. The RFA recognizes that it is often counterproductive and unfair to apply identical government regulations to business entities, regardless of size, and requires that the government examine alternatives to burdensome regulations. Under the RFA, agencies must complete an initial regulatory flexibility analysis (IRFA) of the impact of proposed rules on small entities and set different compliance standards for them when it is lawful, desirable and feasible to do so. DOL has prepared an extensive IRFA and we compliment the Department on its efforts.

In addressing the proposed regulations, we direct our comments to three issues: (1) the proposed method for determining "prevailing" wage rates; (2) recognition, for the purpose of wage determinations, of semi-skilled workers on federal construction sites; and (3) the elimination of weekly payroll submissions. These issues, taken together, cause the greatest increase in costs of federally constructed projects and at the same time have the most negative effect on small construction companies.

I. Prevailing Wages

A. Discussion of the Proposed Rule

The major problem for small business is caused by the process which sets the prevailing rates at a level that is too high to enable small businesses to compete competitively for government construction contracts. The disproportionate costs imposed on small business by these rules leads us to the conclusion that a small business exemption is the most appropriate way to alleviate the problem. 1/ We would, therefore, support legislation which would permit this exemption. However, since no small business exemption is allowed under current law, we will address the proposed rule.

1/ Our conclusion regarding the disproportionate impact of the Davis-Bacon Act prevailing wage guidelines is based in part on empirical data gathered through a joint survey conducted by the Office of Advocacy and the Associated Builders and Contractors (hereinafter referred to as the Advocacy-ABC Survey). See Attachment A, The Davis Bacon Act Reconsidered: A "New" Small Business Tax prepared by the Economic Research Division of the Office of Advocacy (October 1981).

We cannot provide substantive comments on the proposed changes in the method of determining prevailing wages because of DOL's failure to distinguish the impact on large from small businesses in its IRFA. The effect on small business may be so great that DOL may find it appropriate to change its method of wage determination solely on this basis. It is the responsibility of DOL to evaluate all relevant information in considering alternatives to their proposals and we are submitting the following comments on the IRFA so that the final regulatory flexibility analysis (FRFA) will differentiate the impact on large and small firms. Only by performing this additional analysis will DOL be able to determine whether it has chosen the proper wage determination process for both groups and comply fully with the RFA.

B. Discussion of IRFA

(1) Selection of the Sample

The joint Advocacy-ABC survey shows that the labor and administrative costs per worker imposed by the Act are greater for smaller companies than for large. 2/ It is important, therefore, when choosing a new sample to include differing size businesses.

(2) Timeliness

The recognized time lag of as much as five years in the data used to determine prevailing wages, leads to more inaccuracies in small business data than in large. Due to the smaller size and shorter duration contracts of small firms and the more frequent updating of wage determinations based upon union rates (which create a greater cost to the small firm of up to 5%-20%), there are different cost impacts on small business.

(3) Procedures for area surveys

Clearly, part of the wage determination problem is the limited number of companies that are in the Area Wage Surveys (AWS) of the Bureau of Labor Statistics. The AWS must be made more representative by the inclusion of specific data on size and rural areas.

Whether the average wage rate in an area will replace the union wage rate in area determinations is crucial to the impact of the new wage determination process. For example, in areas such as residential construction where small firms tend to dominate and are less often unionized, defining the average rate to equal the union rate discriminates against the small firm.

2/ See Attachment B, a table entitled "Percentage Increase in Cost Categories by Number of Employees."

The FRFA should reflect these criticisms as well as any other data which are presented to the DOL during the comment period. Our analysis of the data from the Advocacy-ABC Survey indicates that the wage determination process imposes excessive costs on small construction firms in comparison to large firms.

To comply with the RFA, the FRFA must discuss whether the wage determination process should be revised to reflect the greater costs imposed on small business.

II. Helper to Journeymen Ratio

DOL's proposed classification of semi-skilled labor (helpers) in determining localities' prevailing wage rates is commendable. This proposal recognizes existing, industry-wide phenomena and is a bona fide attempt at reducing costs to the participating construction firms and the federal government.

However, we believe that DOL has stopped short of setting an appropriate helper to journeymen ratio. There is substantial data ignored by DOL that indicates that the 1:5 ratio of helpers to journeymen is often too low, particularly for small firms. DOL itself cites a survey in its IRFA indicating a 1:4 average ratio for the nonunion sector of the construction industry employed outside of single family residential construction. 3/ The arbitrary selection of a 1:5 ratio fails to recognize that small firms use a greater number of lower-skilled workers in construction than do large firms.

Analysis of construction data from the Equal Employment Opportunity Commission (EEO-1 Survey) by the Office of Advocacy, shows that small firms use a greater percentage of laborers than are used in large construction firms for the three major construction industries. 4/ Therefore, setting a national ratio of helpers to journeymen without reference to data on firm size ignores reality.

We illustrate with an example. Based on the 1979 EEOC data in heavy construction (SIC 16), the ratio of usage of laborers to the combined total of craftsmen and operatives is shown by the following table:

3/ See IRFA, page 68.

4/ Special tabulation of EEO-1 survey data for 1979 for the Small Business Administration by Chilton Research Services.

Company Size	100-249	1,000-4,999
Occupation		
Craftsmen	14,064	2,612
Operatives	11,975	2,104
Laborers	11,877	1,209
Ratio Laborers / Craftsmen and Operatives	11,877/26,039= .456	1,209/4,716= .256

Thus, while the large company data suggests a ratio of one helper per every four craftsmen-operatives, the small company data suggests that a more realistic ratio for the small firms in SIC 16 would be in the 1:2 range (1 helper per every 2 journeymen). We would be happy to supply the Department of Labor with guidance in the setting of this ratio in the other two major construction industries reflected in the Advocacy analysis. This ratio varies substantially for the other two construction industries. 5/ While a ratio of 1:5 is realistic in special trade construction (SIC 17), the ratio appears closer to 1:2 in contract construction, (SIC 15). Our data suggests that across the entire construction industry a ratio of 1:3 (one helper to every three journeymen) is the most accurate.

Additionally, for companies employing less than 100 workers, it is likely that the helper to journeymen ratio is consistent with the lower ratios suggested by the EEOC survey and may even be closer to a 1:1 level. Considering that 56 percent of government contractors employ 20 persons or less (IRFA summary, p.11), the savings in terms of both lower construction costs and greater productivity would be substantial and would reduce the inherent bias of the Act.

5/ See Attachment C, a table entitled "Skill Utilization in SIC's 15 and 17--General Contract Construction and Special Trade Construction by 2 Company Sizes."

Obviously, were a contractor able to substitute low skill for high skill workers without sacrificing productivity, he would do so. As utilizer of proportionately more lower skilled workers, small firms are in a unique position to reduce both the unemployment rate of the semi-skilled and the costs of government construction.

The ratio of helpers to journeymen should be set at a level consistent with present practice. Therefore, we encourage DOL to tier its regulation by varying ratios for different industry/size classifications. This would more fairly reflect actual practice and not inhibit small firm participation in Davis-Bacon projects.

As a less preferable alternative, DOL could simply adopt a 1:1 ratio. At a minimum, the data cited above proves that the uniform 1:5 ratio is unduly severe for the vast majority of small construction firms.

III. Elimination of the Weekly Payroll Submission Requirement

The Office of the Chief Counsel strongly supports the proposed elimination of the submission of the weekly payroll requirement. In the regulatory flexibility analysis, the Department estimates cost savings to small contractors of between $15 and $56 million annually. We are particularly pleased that DOL chose to separately report the cost savings to small contractors.

The substitution of a weekly compliance statement for the weekly payroll, to assure conformance with the Copeland "Anti-Kickback" Act, is a good illustration of the benefits of regulatory flexibility. 6/ The administrative burden on the regulated is eased while the enforcement needs of the agency are still served. Additionally, the federal agencies who were the recipients of the voluminous records are spared the expense of maintenance and storage of these unnecessary documents. Lastly, the proposed revision conforms with the recommendation of two study groups of "The Commission on Government Procurement." 7/

6/ Unless the weekly compliance statement is of significant enforcement value, we would support repeal of this particular requirement of the Copeland Act.

7/ See GAO, The Davis-Bacon Act Should be Repealed, April 1979, pp. 78-82.

CONCLUSION

It was Congress' intent when enacting the RFA to insure that agencies utilize rulemaking to address the special problems of the small business sector. The IRFA prepared by DOL in its attempt to comply with RFA has enabled the Office of Advocacy to examine the data on which DOL based its proposed rules and to submit substantive comments on these proposals.

We urge DOL to consider our comments and the comments of other small business groups and look forward to its analysis of these alternatives in the FRFA. By considering these alternatives, DOL can substantially reduce the regulatory burden on small businesses involved in federal construction.

If you have any questions regarding our comments, please contact me or Guy Steuart of my staff at 653-8210.

Sincerely,

Frank S. Swain
Chief Counsel for Advocacy

Senator NICKLES. I think you were complimentary of the administration for some of the changes they had proposed administratively. However, you mentioned that it was necessary for Congress to address this issue statutorily to at least increase the threshold, because the threshold is now in the statutes at $2,000. Is that correct?

Mr. SWAIN. Well, I think that in looking at the Davis-Bacon impact on small business, you have to see where the law stops and starts, and the law allows some discretion to make some administrative changes, but apparently it doesn't allow any discretion on the threshold issue.

The threshold issue is an issue that we hear an awful lot about from small business people, and that's what we're trying to reflect in our statement today.

Senator NICKLES. You mentioned that in your visit's with small contractors that it was your belief that, because the threshold of the Davis-Bacon Act applied to all Federal contracts in excess of $2,000, there were a lot of small businesses that just refused to bid for any of several reasons. One was complying with all the paperwork, and, two, the vacillation of wage rates.

This fluctuation of wage rates causes hardships on small contractors because maybe 80 percent of their work is non-Government contracts and 20 percent is Government contracts. For the majority of their work, their labor rates might be what the market would bear, let's say in this case $7, but under the Davis-Bacon statutes, they might range anywhere from $7 to $13 or $14. As a result, workers end up switching back and forth from one wage rate to another, depending on whether the project is Davis-Bacon or non-Davis-Bacon. I know its hard to estimate because there are so many thousands of small businesses, but how many small businesses really just throw their hands up and say, "No, I'm not going to mess with a Government contract"? Do you have any kind of a feel for that?

Mr SWAIN. I really don't, Senator, honestly. It's almost an uncountable question.

I've talked to enough people and heard enough about this aspect of the problem to convince me that it's a serious issue and, in fact, the people whom we cite in the testimony are people who have contacted us and from whom we've heard, and almost every time we hear from somebody about Davis-Bacon, after telling about whatever their particular experience is, whether it's with paper keeping or wage rates or misclassification, they generally add, "It's really not worth it for us, and we're just not going to go out and stick our necks out for a Federal project again."

That's unfortunate, because regardless of what we do in this country, we're still going to have a lot of post offices and runways and housing projects being built. There's a lot of work out there that has to be performed well and has to be performed efficiently if we're going to do a good job by the taxpayer.

And to the extent that you have a Federal practice here that's basically discouraging good, free, active competition for these Federal projects, then that's a poor result, in my opinion.

Senator NICKLES. You mentioned, in your testimony that total Federal projects are something like, $110 billion; is that correct?

Mr. SWAIN. That's overall procurement, Senator. That's not simply construction. Overall procurement is $110 billion.

Senator NICKLES. You said construction was $32 billion in your testimony. I've heard others say $40 billion.

Mr. STEUART. Federal and federally assisted comes to about $32 billion.

Mr. SWAIN. We have asked the Federal Procurement Data Service to produce some more sophisticated figures on this, and we simply didn't receive them in time for the testimony this morning, but we'd like to submit them to the committee when we do receive them.[1]

Senator NICKLES. We would appreciate that, and we'll keep the record open for that submission.

As a member of the Small Business Committee, many of us have been trying to analyze ways that we can help small business. Some people say, "Well, we'll increase SBA loans, grants, research, et cetera."

I don't think that's the solution for assisting small business. I've visited with many small businessmen and have been in that sector for some time myself, and if it would be possible to eliminate a lot of the impediments to entry into the marketplace, I think a lot more could be done for small businesses than can be done by just trying to throw money out to assist them in that way. Repeatedly, we have heard that small businesses say, basically, "Allow us to compete."

When we talk about jobs and the legitimate concern over the rising unemployment rate, we have to realize that most new jobs are not created by the large corporations such as General Motors or Exxon. Most new jobs are created by small businesses. Yet small business is basically cordoned off, and a large percentage of those small businesses are not allowed to compete or refuse to compete for Government jobs because of unfair restrictions such as Davis-Bacon laws that make them comply with mandated prevailing wage rates. Then the businesses don't go into that job area, they don't go into that marketplace, they don't expand their businesses to the degree or capacity that they could. In other words, they don't hire as many people, and they don't create as many jobs.

Another area in which I see this Congress moving is removing some of the artificial barriers that Government has imposed, such as Davis-Bacon,and allowing a more competitive marketplace system to operate to create more jobs, thus getting more people off the unemployment rolls and into the productive sector.

I appreciate very much your testimony and the research you did, and also the very detailed analysis you did for DOL in their recommendations. You are to be commended for that. You've done a good job, and I believe that Congress will be able to work to remove, some of these artificial barriers that Government has imposed in this case, 50 years ago–that have basically been too restrictive, on small businesses. Did you have anything else that you wanted to say?

Mr. SWAIN. Well, just that your point about new Federal programs is an interesting point, Senator. There is $6 billion in direct

[1] Information not available at time of going to press.

Federal construction contracts that the Federal Procurement Data Service reported to us. Just a comparison, for the direct loan program of the SBA, which is frequently a subject of great discussion, I think the current budget year request is for about $125 million. The guaranteed loan program in 1981, which is SBA's major program, was at about a $3.3 billion level.

So, really, there is great debate, and rightfully so, as to the level of funding for some of these programs that are direct Federal assistance to small business.

I think what we can do in the procurement process–and, of course, this morning we're talking about construction procurement—is to try to make procurement more accessible to small business, and in order to do that, you've got to say, "How do you make it easier for a small business person to do business with the Government?"

As long as there is an administrative structure or a regulatory structure which is not only inconvenient but downright burdensome for the small business, on the one hand, and, on the other hand, serves very little current social goals or economic goals, then I think it's the proper responsibility of Federal officials to take a look at how to best change that.

Senator NICKLES. Thank you very much, Mr. Swain. We appreciate your statement, and also the amount of work gone into preparing it for us.

Mr. SWAIN. Thank you, Senator.

Senator NICKLES. Thank you.

For our next panel today, we have C. H. Fields with the American Farm Bureau from Washington, and also Dr. Martha Fraundorf from the Department of Economics, Oregon State University.

Mr. Fields, welcome. We appreciate your appearance before our committee this morning.

Mr. FIELDS. Good morning, Senator.

STATEMENT OF C. H. FIELDS, ASSISTANT DIRECTOR, NATIONAL AFFAIRS, AMERICAN FARM BUREAU FEDERATION, WASHINGTON, D.C.

Mr. FIELDS. As I'm sure you know, the American Farm Bureau is a dues-supported general farm organization with a current membership of more than 3 million member families. Farm Bureau members include approximately three-fourths of the Nation's commercial farmers and rachers, and a majority of these people, as you also know, are owners and operators of small businesses, so we have an interest in this subject here this morning. Farm Bureau policy, as adopted last month by the voting delegates—reaffirmed, really—calls for repeal of the Davis-Bacon Act, and that's the ultimate goal that we seek from the Congress. Pending achievement of that goal, it would be in the best interest, in our opinion, of small businesses, most construction workers, and of the public as a whole to amend the act to minimize its devastating effect on local—mostly small—building contractors, to reduce the artificial escalation of construction wage rates in nonmetropolitan counties, and to slow down the inflationary impact on the cost of Federally-aided construction. Now, perhaps it's necessary to state why an organiza-

tion of farmers and ranchers is concerned about an act that does not, at first glance, appear to directly affect the day-to-day operations of farms and ranches. In this regard, we need only point out that Farm Bureau members are taxpayers. Any law that results in artificially inflated costs for Federally aided construction and an escalation of local building costs, in general, means farmers and other taxpayers are paying more than they need to in the form of taxes for that construction.

Now, until repeal of this outmoded, unnecessary, and highly inflationary act can be achieved, we urge the Congress to amend the act in several respects:

No. 1, to increase the threshold level of the act's jurisdiction from the present $2,000 to at least $100,000. This would relieve many small construction firms from the economic burdens of the act as administered by the Department of Labor, and would make it feasible for many more local firms in rural counties to bid on Federally aided projects, while at the same time increasing job opportunities in those local communities.

No. 2, provide a clear definition of the geographical scope of consideration in a prevailing wage determination to prohibit the use of metropolitan area data for projects in non-metropolitan counties.

No. 3, recognize the proper and desirable utilization of apprentices or helpers, without any artificial ratio of such workers to journeymen.

No. 4, eliminate the requirement of weekly wage reports, substituting therefor simple statements of compliance.

No. 5, clearly define prevailing wage so that the single wage rate paid to more than 50 percent of the workers in a locality is the prevailing wage rate. If more than 50 percent of the workers are not making a single wage rate, then the Department should be required to utilize the weighted average of all workers in the area.

No. 6, preclude any ruling by the Secretary that would include offsite work under the jurisdiction of the act.

Now, the American Farm Bureau Federation felt so strongly about the need for facts in judging the merits of the Davis-Bacon Act that 2 years ago we decided to provide funding for an unbiased scientific study of the economic impacts of the act on federally aided construction projects in the nonmetropolitan counties of the United States.

After submitting a request for research proposals to about 20 universities and other research institutions, we accepted the proposal of Oregon State University to conduct such a study.

We are pleased to have with us here today Dr. Martha Norby Fraundorf, assistant professor, Department of Economics at Oregon State University, who will, for the first time, summarize the results of that study and explain the procedures and methodology used in arriving at those results.

We would like to request that Professor Fraundorf's statement and an excerpted portion of the study report and recommendations be made a part of the hearing record.

Senator NICKLES. They will, as all other statements made before this committee will be entered into the record.

[The prepared statement of Mr. Fields follows:]

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION
BEFORE THE SUBCOMMITTEE ON GOVERNMENT PROCUREMENT
SENATE COMMITTEE ON SMALL BUSINESS
REGARDING THE DAVIS-BACON ACT

Presented by C. H. Fields, Assistant Director, National Affairs
February 2, 1982

The American Farm Bureau Federation is a voluntary, dues-supported general farm organization with a current membership of more than three million member families in 48 states and Puerto Rico. Farm Bureau members include approximately three-fourths of the nation's commercial farmers and ranchers who are members of county Farm Bureaus in about 2,800 counties. The majority of those farmers and ranchers are owners and operators of small businesses.

Farm Bureau policy, as adopted last month by the voting delegates of the member State Farm Bureaus, calls for repeal of the Davis-Bacon Act; and that is the ultimate goal we seek from the Congress. Pending achievement of that goal, it would be in the best interest of small businesses, of most construction workers and of the public as a whole to amend the Act to minimize its devastating effect on local--mostly small--building contractors, to reduce the artifical escalation of construction wage rates in nonmetropolitan counties, and to slow down the inflationary impact on the cost of federally-aided construction.

Perhaps it is necessary to state why an organization of farmers and ranchers is concerned about an Act that does not, at first, appear to directly affect the day-to-day operations of farms and ranches.

In this regard, we need only point out that Farm Bureau members are taxpayers. They pay their fair share of taxes to support the costs of local, state, and federal governments. Any law that results in artifically inflated costs for federally-aided construction and a general escalation of local building costs, in general, means farmers and other taxpayers are paying more than they need to, in the form of taxes, for that construction.

Until repeal of this outmoded, unnecessary and highly inflationary Act can be achieved, we urge the Congress to amend the Act in several respects:

1. Increase the threshold level of the Act's jurisdiction from the present $2,000 to at least $100,000. This would relieve many small construction firms from the economic burdens of the Act as administered by the Department of Labor and would make it feasible for many more local firms in rural counties to bid on federally-aided projects, while at the same time increasing job opportunities in those local communities. The original purpose of the Act was to "give local labor and the local contractor a fair opportunity to participate in this building program" by fixing a "floor under wages" on government projects.

2. Provide a clear definition of the geographical scope of consideration in a prevailing wage determination to prohibit the use of metropolitan area data for projects in nonmetropolitan counties; to define "normal area" as a county, in most instances.

3. Recognize the proper and desirable utilization of apprentices or helpers, without any artificial ratio of such workers to journeymen.

4. Eliminate the requirement of weekly wage reports, substituting therefor simple statements of compliance.

5. Clearly define "prevailing wage" so that the single wage rate paid to more than 50 percent of the workers in a locality is the prevailing wage rate. If more than 50 percent of the workers are not making a single wage rate, then the Department should be required to utilize the weighted average of all workers in the area. The net result would be to discontinue giving an automatic advantage to union shop contractors through the present "30 percent rule" of the Department of Labor.

6. Preclude any ruling by the Secretary that would include off-site work under the jurisdiction of the Act.

The American Farm Bureau Federation felt so strongly about the need for facts in judging the merits of the Davis-Bacon Act that two years ago we decided to provide funding for an unbiased scientific study of the economic impacts of the Act on federally-aided construction projects in the nonmetropolitan counties of the United States.

After submitting a request for research proposals to about 20 universities and other research institutions, we accepted the proposal of Oregon State University to conduct such a study.

We are pleased to have with us here today Martha Fraundorf, Assistant Professor, Department of Economics, Oregon State University, who will, for the first time, summarize the results of that study and explain the procedures and methodology used in arriving at those results. We would like to request that Professor Fraundorf's statement and a major portion of the study report and recommendations be made a part of this hearing record.

We appreciate the opportunity to present our views.

Senator NICKLES. Dr. Fraundorf or Mr. Fields, has this study been made public before today?

Mr. FIELDS. This is the first time it's been made public, and what we have here is really some Xerox copies of the report. We don't have the printed report here, but it will be available within the next few days, and we can submit a copy for the record.

Senator NICKLES. Thank you.

Dr. Fraundorf?

Dr. FRAUNDORF. Thank you.

[Subsequent information was received and follows:]

Effect of the Davis-Bacon Act on Construction Costs in Non-Metropolitan Areas of the United States

Martha Norby Fraundorf
John P. Farrell
Robert Mason

Department of Economics
Oregon State University
Corvallis

January 1982

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ACKNOWLEDGEMENTS: A number of individuals made important contributions to this project. Lafayette G. Harter, Professor of Economics, assisted in the development of the project and in the review of literature; Lyle Calvin, Professor of Statistics, developed the sampling procedures and assisted in statistical consultation; Pamela Bodenroeder of the Survey Research Center, worked on all aspects of the interview schedule, coordination of interviewing and in data coding. Special thanks are due Kenneth C. Fraundorf, Assistant Professor of Economics, who acted as a sounding board for our ideas and made many valuable suggestions. Harold Pritchett and George LaBaun, Professor and Associate Professor of Civil Engineering, provided valuable advice on the construction industry and construction methods. Barbara Finlay, Assistant Professor of Sociology, and Dianne Farrell, Assistant Professor of History, helped with the permit search and design of the interview schedule. Much gratitude is due as well to the many volunteers who conducted interviews and to the contractors who agreed to participate in the study.

The research was completed under a grant from the American Farm Bureau Federation. The conclusions, findings, and views expressed in this publication are the authors' alone and do not necessarily represent the views of the AFBF.

EFFECT OF THE DAVIS-BACON ACT ON CONSTRUCTION COSTS IN NON-METROPOLITAN AREAS OF THE UNITED STATES

Martha Norby Fraundorf, John P. Farrell and Robert Mason

EXECUTIVE SUMMARY

This study of the impact of the Davis-Bacon Act sought to measure its effect on construction costs as well as on wage rates. Through face-to-face interviews with contractors of 215 randomly-selected non-residential buildings in the United States, data were gathered on wages, costs, project characteristics, size as well as a host of other variables thought to affect construction costs.

Holding all other variables constant, the results show that the impact of the Act ranges between 26% and 38% depending on the economic model employed. This estimate is larger than earlier empirical studies, based on wage data for urban or national samples, have suggested. The Act raises costs primarily by raising wages; however, costs are raised in other ways as well. Work assignments to a particular trade, required for applying the posted prevailing wage rate, also may have increased costs.

Moreover, the data indicate that the Act is not preserving jobs for local contractors, contrary to its original intention. Only 28% of the contractors for the public (Davis-Bacon) projects were from the same county in which the project was located, compared to 47% of the private projects matched for type and size.

Regional estimates show that the 26%-38% increase is not uniform. The effect of the Act on construction costs was not strong in some regions, such as the South, while it was very strong in others, such as the North-Central. One possibility is that the Act has little effect in rapidly growing regions, where labor markets are likely to be tight.

The results apply to non-metropolitan areas only and should not be generalized to urban settings, which are likely to be quite different. Part of the increased costs may be due to other government programs, such as affirmative action, or to different standards for quality and safety. These effects cannot be disentangled readily from that of Davis-Bacon. Furthermore, repeal of the Act does not mean a 26%-38% reduction in costs unless state prevailing wage laws are repealed as well.

CHAPTER 1. REVIEW OF THE CONTROVERSY OVER THE DAVIS-BACON ACT

Congress passed the Davis-Bacon Act in 1931 in response to complaints by local contractors and construction workers about the loss of federal construction contracts to itinerant contractors importing low-wage workers from other areas. Supporters argued that a law requiring all contractors to pay the local rate would protect local living standards as well as ensure that local businesses had a chance to bid successfully on jobs in their area. This rationale was restated during the hearings held in the early 1960's. Testifying before the House Subcommittee on Labor, Under Secretary of Labor John F. Dearning said:

> ...we submit that this amendment [to include fringe benefits] would at once protect the fair construction employers and the American workingman. It would protect the fair employer from the incursions of those who would move into his contracting area, tempted and advanced by the winning of contracts through substandard conditions, and it would protect the American workingman from being victimized by such substandard conditions.*

A number of witnesses cited cases of outside contractors who did not pay fringe benefits — including one which had hired "from an orphanage in the Carolinas" for a project in Washington, D.C.[2] —thereby underbidding local contractors. Individual contractors and representatives from some associations and unions argued that such legislation was in the public interest. As an example, G. R. Collins, president of the National Contractors Association, stated:

> In conclusion, enactment of the bill shall, in our opinion, contribute toward stabilizing the construction industry . . . It will also contribute to the public interest by promoting continuance of apprenticeship training programs for the industry and help to maintain voluntary retirement and medical aid plans.[3]

Such arguments have been persuasive, not only in Congress, but also in many state legislatures. All but nine states have state prevailing wage laws. Although many of these are similar to the federal law, they differ in coverage and method of defining the prevailing wage.[4]

For all contracts "in excess of $2,000 to which the United States . . . is a party," the Davis-Bacon Act requires payment of wages "prevailing for the corresponding class of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village or other civil subdivision of the State in which the work is to be performed."[5] Since 1931, the Davis-Bacon Act has been extended in a number of ways. In 1964, the Act was amended to broaden the definition of wages to include fringe benefits. In addition, Congress has incorporated the Davis-Bacon prevailing wage provisions in legislation providing federal assistance (federal aid, federal loans, or federal guarantees or insurance) for construction of schools,

* Footnotes are listed at the end of each chapter.

hospitals, transportation facilities, and many other state or local public works.[8] In 1977, "federal construction of $7.4 billion was covered directly by the prevailing wage provisions of the Davis-Bacon Act."[7] In addition, much of the $30.4 billion of construction by state and local governments received federal aid and was therefore subject to the federal Davis-Bacon provisions as well.[8]

Prevailing wages determined

Administration of the Act is a joint responsibility of the contracting agencies and the Department of Labor. The contracting agencies determine applicability and monitor compliance. It is up to the Department of Labor (DOL) to define the various classes of workers, the area boundaries, and the projects to be considered similar. The DOL then makes its determination of the prevailing wage on the basis of data submitted by interested parties—contractors, employers associations, labor organizations, or the contracting agencies—or on the basis of its own survey of wages in the area. Since 1963, the DOL has followed a set procedure in interpreting the term "prevailing" as it applied to the available wage data. If it finds that a majority of the workers are paid a particular wage, it takes that wage as the prevailing wage. If no such majority exists, the DOL chooses that wage paid at least thirty percent of the workers. If there is no such wage, the DOL simply computes the average, which then becomes the prevailing wage.[9]

Prevailing wage determinations are made periodically for areas with a substantial amount of construction activity. These wage rates are published in the *Federal Register* and are valid until changed.[10] The General Services Administration has estimated that area wage determinations are used for 90 to 95 percent of all projects.[11] The Labor Department's estimate is 75 percent.[12] If the project is located outside one of these areas, the contracting agency will ask for a special project determination.[13] In either case, since 1935 the determination of the prevailing wage is made prior to putting the contract out for bid so that the required wage can be included as part of the project specifications.

Any of the parties may seek a modification in the prevailing wage prior to opening of bids. The first step is to file a protest presenting evidence of error. If the petitioner fails to convince the DOL's Wage and Hour Division that it has erred, the protesting party may ask the Department's Wage Appeals Board to review the determination. This Board does no investigative work itself but renders its decision on the basis of the evidence and arguments the parties present before it. Its decisions are final and not subject to review by the courts.

The Davis-Bacon Act has been the subject of much controversy ever since its passage. While there is no shortage of testimony as to the Act's supposed effects, much of the evidence consists of individual anecdotes or case studies. Actual analysis is scarce. This controversy over the Davis-Bacon Act can be divided into two major questions: (1) is the prevailing wage properly determined according to DOL procedures and (2) what is the effect of the Davis-Bacon Act on construction costs?

Much of the writing and testimony on the Davis-Bacon Act documents cases in which the DOL has supposedly erred in determining the prevailing wage. Critics claim that the effect of these errors is to raise wages and, hence, construction costs. Errors can and apparently do occur at each step in the wage determination process—from the choice of the appropriate area and the selection of comparable projects to the method of collecting and compiling wage data. We will discuss each of these.

With a relatively small staff and thousands of wage determinations[14] to make each year, the DOL cannot undertake individual wage surveys in each case.[15] Instead, it relies extensively on wage information submitted by interested parties. Unions (or union contractors) regularly send in copies of signed collective bargaining agreements. Non-union contractors or employers' associations may also submit data. However, they complain that it is very costly for them to supply the project statistics the DOL requires. In Senate testimony, one open-shop contractor, Michael Callas, described the problem:

> The wage data is [sic] requested on a project-by-project basis; that is, as a contractor, I am asked to fill out a "WD-10" form *for each project* I have had during the past 12 months and record the name, location, type, and value of the project, and the classifications, hourly base rate and fringe benefit contribution paid to each employee during peak payroll weeks. . . .
>
> In my company, as in most open shop companies, employees are paid various rates according to experience and productivity . . . Many are multiskilled, and capable of working on a variety of tasks. During different projects, or while on just one project, an employee may be paid different rates based on the difficulty of the task assigned.
>
> Filling out a survey form for each project I have worked on in the past year is a time consuming task. The data requested is [sic] simply not readily available, and many contractors do not have the time or staff to collect and report the information.[16]

Thieblot reports that contractor associations in Texas, the Carolinas, and Maryland are "routinely" conducting their own wage surveys to ensure that the DOL gets representative information. An official of the Carolinas Branch of the Associated General Contractors (AGC) estimated that the annual cost to it alone was $65,000 to $75,000 in 1973.[17] Consequently, only 30 percent of all contractors voluntarily submit data to the DOL, according to its estimates.[18] The result is that the DOL is working with information that is not truly representative.

The DOL is particularly likely to rely on this largely union data because it chooses the rate paid to thirty percent or more of the workers as the prevailing wage. In such cases, workers must all be paid exactly the same wage; wages which vary by as little as one cent per hour are considered different. Union workers generally receive uniform, collectively-bargained wages. The wages of non-union employees are likely to vary from one employer to another or even among workers employed by a given contractor, as noted in the testimony cited above. It would be a rare coincidence if the wages of enough non-union employees were exactly the same even if such employees were in the majority. Thus, in areas in which at least thirty percent of the workers are union, the union rate will nearly always be established as the prevailing rate.

Union Wage Used

These two factors combined have led to extensive use of the union wage rate as the prevailing wage. For example, D.N. Gujarati found that 236 (79%) of the 372 wage determinations in his sample from 1960-1961 were based exclusively on union rates.[19] The General Accounting Office (GAO) studied 530 area determinations in effect in 1976. Of these, 302 (57%) had rates based on collective bargaining agreements, not wage surveys.[20]

It is alleged that often the DOL presumes that at least thirty percent of the workers are union members without seeking verification of this fact. Many people perceive the DOL as merely adopting the wage scale of the union having jurisdiction in that area as the prevailing wage. Indeed, the terms "prevailing wage" and "union wage" are used synonymously in much of the literature on the Davis-Bacon Act. Thieblot offers the following quotation from a Division of Wage Determinations employee as evidence of this practice.

> In general, the rate determination procedure was automatic. Except for a few states in the South and Midwest and in a few

specific suburban areas, signed collective bargaining agreements served as the prevailing wage rate.

The administrative problem was a compound one, not at all helped by the niggardly level of support provided by Congress and Administration to support fact-finding activities. In many cases, halfhearted mail surveys were the only thing attempted, and then the union rate was fallen back on when the response was too low."

The critics conclude that because the DOL is using a sample which wrongly omits certain observations, the prevailing wage calculated from these data will be in error (not the wage truly prevailing). Since it is usually observations on the lower-paying non-union jobs which are omitted, the DOL will be more likely to either erroneously adopt the union wage under the 30 percent rule or to calculate an average wage higher than the true population mean. The consequence is disruption of the construction industry and higher costs. Furthermore, errors which raise wages and cost today have an effect on future wages, as well. Errors are carried over to other periods because the DOL includes wages paid on earlier Davis-Bacon projects in its calculation of the prevailing wage.[32]

The argument outlined above has not taken into account several factors. First, omitted observations may not be lower than the union rates which are included. Non-union contractors may pay union scale both to recruit good workers and as a means of forestalling unionization. Second, even if missing observations were included, the prevailing wage might not change because the DOL would still apply the 30 percent rule. Third, lags in receipt and recording of new union contracts may cause the union rate to be below that actually paid.[33] Fourth, these errors may be offset by other errors so that the net effect on the prevailing wage is small. Finally, while such errors in the data may indeed raise wage rates, and, hence, construction costs, this might be offset by savings in administrative costs—the costs associated with conducting wage surveys in each area.

Many contractors testifing before Congress have called attention to the related problem of errors in selection of similar projects. The DOL, following industry practice, divides construction work into several major categories: residential, commercial buildings, heavy construction, and highway construction (or a combined heavy-highway category).[34] Area wage determinations include rates for each type of worker in each of the major industry segments. For example, separate determinations are made for carpenters on commercial buildings and carpenters doing heavy or highway work. Similarly, in making project determinations, the DOL first assigns the project to one of the above categories and then selects appropriate projects from within the same category for comparison. A number of case studies have been presented to show how the DOL has erred in categorizing the project. In these cases it either ignored local practice or did not clearly consider the nature of the work for this and other projects in the category.[35] In some cases, the dispute is over work on single family or low-rise multiple-family housing units which was classified as commercial instead of residential construction. Since commercial rates are usually significantly higher, an error of this sort raises costs. With regard to this problem, Thieblot notes:

> "Consternation over misapplication of rates on residential construction reached such proportions that an agreement was made in 1972 between the Department of Housing and Urban Development and the Department of Labor; the former would conduct wage surveys of its own and submit the evidence to the latter along with any requests for wage determinations."[36]

The problem has not been resolved so easily in other segments of the industry. Contractors have complained of heavy construction which bears building rates instead of heavy or heavy-highway rates. Examples include the Arlington county segment of the Washington Metro,[37] sewage treatment plants in Iowa,[38] and the Manned Space Center in Houston.[39] An additional problem is the application of rates for new construction to repair or maintenance work.[40] Contractors and contracting agencies are angered by errors in classification not only because use of the generally higher building rates raises costs, but also because they can upset long-standing industry division and can make it difficult to get work done. Contractors experienced in the type of work required may be reluctant to bid and pay higher rates while those who normally do commercial building and pay those rates may have neither the interest nor the experience necessary to do the job. Furthermore, these errors tend to be self-perpetuating in the manner already described.

Comparable projects difficult to find

The problem of finding comparable projects appears to be particularly troublesome in rural areas. The problem here lies in the selection of the appropriate area. The DOL uses the county as the basic unit of analysis. For urban counties, there is usually sufficient construction activity to find comparable projects built within the preceding 3 to 6 months. However, in rural areas the volume of construction is small and often no similar construction has been undertaken during the preceding year. The DOL's practice has been to use rates on the nearest similar project. When this involves the use of rates from adjacent counties (either by using rates on projects in those counties for project determinations or the aggregation of a group of rural counties to be covered by one area determination), complaints have been relatively mild and infrequent. When urban rates are used or when the DOL "leap frogs" over adjacent counties and uses rates on projects several counties away, protests are common. Transcripts of Congressional hearings and case studies provide examples of projects "just next door" which were not considered while the DOL was basing its wage determination on rates from some project or contract many miles away. The cases of the Capehart housing project,[41] the Mountain Park Dam,[42] the two Tennessee projects described by the GAO,[43] and the "Site R" sewage treatment plant described in the testimony of Michael Callas[44] are illustrative.

The problem is not one which is easily solved since it arises from the conflict between an adequate sample size and the use of as small (local) a geographic area as possible. Smaller areas (one county or one city) have fewer projects which could reasonably be called comparable. Lengthening the time period to include rates from projects built more than a year earlier may not help and would be fraught with difficulties and distortions, especially in an inflationary era. Thus, the only choices open to the DOL are to use wages on projects of a different sort (which as noted above also presents problems) or to use wages outside the county. Another county may, indeed, supply labor in the case of a large project in a lightly-populated rural county which has few workers with the qualifications for new jobs. The natural tendency in extending the area is to use what information is available; most likely this will be urban wage data or data on similar projects located in urban areas. Together with the reliance on collectively-bargained contracts which over time have covered increasingly wide areas, this results, critics claim, in the importation of urban rates to rural areas which are not part of the same labor market. Not only does this raise wages, critics contend, but it makes it *more* difficult for local contractors to bid successfully on federally-funded projects in rural areas. Local contractors may be discouraged from bidding because they do not want the disruption and loss of morale resulting from paying workers more for one job only.[45] Urban contractors who normally pay the higher rates are not affected

and bid. The result, opponents say, is that contrary to the original purpose, the law as now administered encourages "outsiders" to enter and gives them the advantage over locals.

The work of D. N. Gujarati provides the major source of information about this practice. Gujarati selected a sample of 300 counties; the number of counties from each state to be included in the sample was inversely proportional to the degree of unionization, with the particular counties from each state chosen on a random basis.[36] Gujarati then obtained information for 9 crafts in 372 of the wage determinations the DOL made for projects in the sample counties during 1960-1961. He categorized the 2,436 prevailing wage rates according to whether they were based on union wage rates, DOL surveys, or submitted payroll evidence. Those determinations bearing a union rate were further divided according to whether or not the union rates were purely local. Of the 1,931 cases bearing union rates, 588 (30.4%) were local rates, 615 (31.8%) were rates from contiguous counties, 438 (22.7%) were rates from non-contiguous counties, and 290 (15.0%) were statewide rates.[37] Use of statewide rates or rates from non-contiguous counties was more common for highway and heavy construction (46 to 73 percent, depending on craft) than for building construction (25 to 38 percent, depending on craft).[38] Use of out-of-county rates was also more common in small counties, whether size is measured by population or construction employment of skilled craftsmen.[39] Gujarati also notes that for building construction:

> . . . about 55-75 percent of wage rates that were based on union rates from contiguous counties had metropolitan area rates; for union rates from non-contiguous counties the corresponding figures were 56-84 percent.
>
> For heavy and highway construction, however, there was a difference. About 50-80 percent of union rates from contiguous counties had non-metropolitan area rates; whereas about 60-100 percent of union rates from non-contiguous counties were metropolitan rates.[40]

The average distance from the location of the project to the place in the non-contiguous county from which the rates were taken was 75 miles. Gujarati concludes, "it would seem that on the average, the Labor Department goes beyond a reasonable commuting distance in search of prevailing wage rates."[41] Gujarati does not, however, provide any evidence as to the willingness of construction workers to commute 75 miles. Therefore, we are unable to judge to what extent non-contiguous counties are the source of the labor supply and hence part of the same labor market. Likewise, Gujarati fails to present any evidence of a relationship between establishment of out-of-county wage rates as prevailing and the use of non-local contractors.

Wage determination errors studied

Another study that deals with this question is the GAO's examination of a sample of 1976 wage determinations for DOL errors.[42] The GAO selected 5 of 10 regions for study, then randomly selected 50 project wage determinations and 23 area determinations from these regions. For 30 locations covered by these determinations, the GAO undertook a wage survey and then made its own calculation of the prevailing wage. In doing this, the GAO followed DOL procedures except that it excluded federal projects and attempted to eliminate double counting of some workers and other errors. In 12 of 30 cases, rates the DOL had set were higher than those the GAO found to be prevailing. "Non-local contractors were awarded contracts on the majority of these projects—7 of the 12—all in counties with less than 100,000 population."[43] The DOL's rates were lower than those calculated as prevailing by the GAO in 18 instances. Local contractors bid successfully on 15 of these projects.[44]

The GAO study is also useful in assessing the impact of other DOL errors. The 30 wage determinations involved setting wages for workers in a total of 277 craft classifications. For these, the GAO selected union rates as prevailing in 43 percent of the cases, while the DOL had selected it in 66 percent of the cases.[45] This finding supports the contention that the DOL will use the union rate too often.

Wage determination compared

For individual worker classifications, DOL and the GAO determinations of the prevailing wage were the same in only 35 cases (13%). In 98 cases (35%), the wage DOL declared as prevailing was higher than what the GAO thought the prevailing wage should be established by an average of $2.04 an hour. The DOL's determination was too low by GAO standards in 144 (52%) of the cases; the average difference was $0.99 per hour.[46] The DOL errors which resulted in higher wages caused labor costs on 12 projects to rise by between 5.2 and 122.6 percent, or an average of 36.8 percent. The increase was between $209 and $69,868. The total difference of $148,696 amounted to a 3.4 percent increase in the total cost of the 12 projects.[47] This figure seems too small an effect given the 36.8 percent increase in wages. Possibly there is an error in the data. Labor costs of the Barron, Wisconsin vocational school amount to only 7 percent of total costs, which is unusually low for a building of this type. Excluding this observation yields an increase in wage costs of 28.2% and an increase in total costs of 4.5%. The 18 projects carrying prevailing wage determinations below the rate the GAO calculated were assumed to have no effect on costs because contractors were paying more than the official prevailing wage. Although recognizing that their sample is really too small for extrapolation, the GAO proceeds to do just that. They multiple the 3.4 percent increase in costs on the 12 projects times the proportion of projects experiencing an increase (12 of 30) times $37.8 billion in federally-assisted construction. They make a similar calculation using the dollar value rather than the number of affected projects.[48] They conclude that DOL errors in determining the prevailing wage raised costs by between $228 and $516 million. These estimates are only of the effect of inappropriate prevailing wage determinations; they are not an estimate of the total effect of the law on costs. The GAO began by estimating the effect of reforming the DOL's procedures and ended by concluding such a reform was impossible and called for repeal of the Act.

Other studies have looked beyond DOL errors in determining the prevailing wage to include the effect of DOL rules themselves. The most controversial is the 30 percent rule, which critics contend results in the establishment of the union rate and a concomitant increase in costs. Many opponents of the 30 percent rule would switch to using an average; others would advocate no prevailing wage. Reformers generally assume the rate established according to the thirty percent rule is above the average. However, the GAO's own examples include one case when application of the rule meant a prevailing wage below the average wage. The DOL defends the thirty percent rule on the grounds that it yields a prevailing rate that some workers actually receive, not an "artificial" average wage received by no one.[49] In addition, the DOL cites its own study which shows the prevailing wage to be approximately equal to the average wage. Reviewing 1,609 craft wage determinations based on the 30 percent rule for which survey information was available, the DOL found that 48.7% of the rates were higher than the average rate for that classification (by an average of $0.68), 49.9% were lower (by an average of $0.48) and 1.4% were the same. For all such determinations, the average difference between the average and the prevailing wage was $0.09.[50] These figures apparently

do not include the effect of applying the rule to those areas in which surveys were not made because they were presumed to be at least 30 percent unionized.

Robert Goldfarb and John Morrall also examine the effect of the thirty percent rule by comparing an average wage calculated using data from a Bureau of Labor Statistics survey of construction wages in 19 cities with the Davis-Bacon prevailing wage for the same areas. For commercial buildings, the unweighted average wage in the 19 cities was $7.18 while the Davis-Bacon wage was $6.95, or 2.7% less. For residential buildings, the simple average wage was $5.37 while the Davis-Bacon wage was $5.77 or 3.1% more.[11] Davis-Bacon prevailing wage rates were also below union rates for both types of work. This evidence would seem to support the DOL's contention that the thirty percent rule yields a prevailing wage close to the average. In a later article, Goldfarb and Morrall recalculate the effect of the Davis-Bacon Act on wages. Arguing that Davis-Bacon rates below the average rate are not likely to affect the wage actually paid, they assign such cases a value of zero and compute a new average difference. "This recalculation shows Davis-Bacon rates exceeding the average wage by 4.0 percent in commercial construction and 9.1 percent in residential construction. . . ."[12]

Goldfarb and Morrall then try to explain these "surprising" results by attributing them to lags in receiving and recording rates from new collective bargaining agreements. They do not consider other possible causes because they assume that the prevailing wage is determined solely on the basis of union rates. The DOL also might be using non-union rates in its determination, either through averaging union and non-union rates (although from a somewhat different data set or with some lag) or through application of the thirty percent rule to cases in which a group of non-union workers receiving less than union scale are in the plurality.

Savings estimated

Goldfarb and Morrall then estimate that a switch to an average rate for all places would save an estimated 1.4 to 2.1 percent, or $227 to $571 million in construction costs for 1972.[13] Under their revised procedure of assuming below average determinations have no effect, the estimated savings are $423 to $962 million.[14] These estimates are rendered suspect because they are based on the difference between the union rate and the average rate even though the data show that the Davis-Bacon rate and the union rate are not the same. Goldfarb and Morrall justify their procedure on the grounds that Davis-Bacon rates are lagged union rates and that lags would also occur if the average wage were used. While the latter is a reasonable assumption, it alone does not justify the switch from a Davis-Bacon-average comparison to a union-average comparison. Their procedure is predicated on the assumption that all prevailing wage rates are based on union rates, in spite of evidence to the contrary.[15] If Davis-Bacon rates were now based on the average wage, lags or inclusions of data from the small companies not surveyed by the BLS could account for the difference between the Davis-Bacon rate and the BLS average wage. In this case, they would show a cost savings from a switch when, in fact, none would occur. Because their cost estimates are inadequate, their conclusions about the net (of adminstrative costs) benefits of such a switch and their implication that much of the cost effect of Davis-Bacon is the consequence of the 30 percent rule should be viewed with much caution.

Two other surveys of wages provide some other estimates of the impact of the Davis-Bacon Act on wage rates. In an independent survey of construction firms in 8 metropolitan areas, Clinton Bourdon and Raymond Levitt found that the prevailing wage was "virtually identical" to the union rate for commercial building in all cities[16] and for residential construction in two cities. Prevailing wage rates were between union and open shop rates in two other cities and below both union and open shop rates in the remaining four." While these conclusions were based on a mail survey to which approximately 20 percent of the respondents replied, a sample of nonrespondents showed no bias in the wage figures.[18] Since these findings are also for urban areas, they should cast doubt on Goldfarb and Morrall's assumption that all prevailing wage rates are based on union rates, at least for residential construction.

Contractors surveyed

Thieblot also mailed questionnaires to about 10,000 construction firms who were members of one of six contractor associations. Each contractor was asked questions about his firm and his experiences with and opinions about the Davis-Bacon Act. A total of 1,402 firms (about 14%) replied.[19] Most of those who did respond had had some direct experiences with the Davis-Bacon Act. Asked if the Davis-Bacon rates were "greatly different in either rate or benefits from your own on private work," 47.5% of the firms (10.8% of the union firms and 78.0% of the non-union firms) responded affirmatively.[20] Where Davis-Bacon had an effect, contractors reported that it raised their wage rates by an average of 36%. Thieblot then estimated that the cost of federal construction increased by 5.6 percent or $2.1 billion in 1974.[21] This estimate should be used with caution. The response rate to the survey was fairly low and Thieblot does not appear to have tested for any resulting biases. It is possible, given the nature of the questions, that those with particularly strong opinions either way would be the most likely to respond. About 200 of those who did added comments of their own. As Thieblot notes, ". . . some of them were quite heated," and only six "could be considered favorable to the continuation of Davis-Bacon."[22]

Contractors were also asked whether they agreed with certain statements about the Davis-Bacon Act. Only 22.0 percent agreed with the statement that local contractors need protection from itinerant low-wage contractors and only 14.4 percent agreed it was desirable and added stability to the industry. Of those who responded, 50.9 percent strongly agreed with the statement, "The Davis-Bacon Act should be repealed," while 18.9% agreed, and 13.4% disagreed or strongly disagreed; 13.6% didn't know or didn't reply to this question.[23]

A problem with all the cost estimates described above—those of the GAO, Goldfarb and Morrall, and those of Thieblot—and, indeed, nearly all estimates of the effect of the Davis-Bacon Act is that they are calculated by multiplying the estimated change in the wage rate times the proportion labor costs are of total costs times the dollar amount of construction affected. This is an erroneous procedure for two reasons: (1) it assumes that the effect of Davis-Bacon is only on wages and (2) it assumes that firms continue to use the same number of hours of each type of labor. There are a number of ways that the Davis-Bacon Act can increase costs other than through its direct effect on wages. Some possibilities include the costs associated with meeting the reporting and record-keeping requirements of the DOL, the effect on worker assignments, the effect on the number of firms bidding, spillover effects on wages and costs in other markets, and the direct administrative expense to the federal government. Each of these is discussed in the following pages. There are also a number of reasons why the assumption that labor hours are fixed may be invalid: contractors may substitute other inputs for labor, they may use more productive workers, and companies may improve project management. These factors are discussed beginning on page 7.

The Davis-Bacon Act not only affects wages but it increases other costs as well. The federal government incurs the extra costs of administering the law. This includes both the cost to the DOL of making and hearing protests about prevailing wage determinations and the cost to the contracting agencies of checking on compliance and coordinating their own wage surveys if needed. Thieblot reports a figure of $1.4 million for the DOL's cost of administering the Act in 1971.[44] The GAO quotes a DOL estimate of $2.6 million in 1976.[45] Based on their 1976 survey of 17 federal departments and agencies, the GAO also estimated the administrative cost to the contracting agencies to be $8.3 million. The total cost to the federal government was thus estimated to be $10.9 million in 1976 and $12.4 million in 1977.[46]

The Act also imposes administrative costs on the contractor. Under the terms of the Davis-Bacon Act and the Copeland Anti-Kickback Act, contractors must file weekly statements of compliance and weekly payroll reports listing for each employee the hours worked, wage rate, total earnings, deductions and net pay. Monthly reports showing hours worked on public and private projects by trade and journeyman/apprentice status, as well as statistics on minority employment are also required. Contractors must submit other reports and certifications too but the ones described are viewed as the most onerous. The general contractor has the added responsibility of making sure that subcontractors file their reports. In addition to these reporting costs, there are the additional costs imposed by DOL errors: the cost of the appeal process and the costs to contractors and their associations of collecting and submitting wage information (see page 2).

Contractors think these costs are significant. Complaints have been raised in Congressional hearings. In the University of Pennsylvania survey, contractors were asked whether they agreed or disagreed with the statement, "Time required to administer Davis-Bacon provisions is a major deterrent to bidding on covered work." Of those who responded, 17.5% strongly agreed, 31.3% agreed, 15.1% did not know or had no opinion, 29.0% disagreed, and 3.3% strongly disagreed.[47] One respondent described the magnitude of the task:

> "Reporting hours by job is burdensome when a work crew of 60 work on 15 different jobs each pay period. We have furnished as much as 20 pages of payroll detail covering 50 employees."[48]

Some contractors are particularly angry because they believe no one looks at or checks these reports.[49] In 1972, the Associated General Contractors surveyed a sample of its membership about the burden of these requirements. Based on their replies, the AGC estimated that costs of meeting the reporting requirements were one-half of one percent of contract costs ($190 million in 1972).[50] The DOL has pointed out the many problems with using these survey estimates: a very low response rate, wide variation in the estimates, apparent errors in the data, and data given in incompatible forms.[51]

Effect of worker utilization

Another way the Davis-Bacon Act as now administered can raise costs is through its effect on how workers are utilized. The DOL has interpreted the words, "prevailing for the corresponding classes of laborers and mechanics" to mean that if an employee does the work of a carpenter, he should be paid the prevailing rate for a carpenter, even if that is not his job title. This requirement presents fewer problems for union contractors who must assign work on the basis of traditional craft jurisdictions maintained by the unions or risk labor trouble. Union contractors and non-union contractors will both complain when the DOL requires that some work be paid at one craft's rate even though the usual practice in the area is to have some other craft do the work. For example, one complaint concerned classification of work sweeping stone on a roof prior to roofing as the work of roofers, even though the contractor claimed laborers always did this work.[52] Unless an appeal is successful, those who did such work, even if they were normally laborers and paid accordingly, must be paid the prevailing wage for roofers. Such determinations can be made after the fact.

A greater problem exists for non-union construction companies which do not follow traditional union craft lines in assigning work. Most open-shop contractors will provide some training to new workers but not to the same extent as union apprentices receive. However, in many cases helper rates will not be established so, unless a new employee is enrolled in a certified apprenticeship program, he must be paid a journeyman's wage. Other open-shop workers will be given some training in a variety of trades. This cross-training makes it easier for the contractor to shift employees around as needed. Special crews may be formed. Bourdon and Levitt describe such practices:

> Some open-shop contractors began to formalize this...and refer to their men as general mechanics composing a "work crew." The crew itself would be charged with a particular aspect of construction: pouring concrete footings in forms, for example, or erecting a small metal building. In the concrete footings example, many members of a crew would do all aspects of the work of five trades. In union construction, laborers and operating engineers only would clear, grade, and grout the site; carpenters only would build forms; iron workers only would set the reinforcing bars; and laborers and cement masons would pour and finish the concrete.
>
> "In nonunion work, a contractor would use a crew doing little else except concrete work; crew members would know enough of each trade specialties to do the type and scale of work required."[53]

In areas where the class, "general building mechanic," is found to be prevailing, a wage determination will be issued for such work and no problem will arise. If the traditional craft jurisdictions prevail, then a contractor using crews like that described above must either keep a record of the time each worker spends at each craft or pay him the highest rate for the entire day or organize the work along union craft lines. The first option would add significantly to administrative costs, the other two to labor costs.

Such disruption of normal practices and wage scales may deter some contractors from bidding on work subject to the Davis-Bacon Act. Contractors expect that morale will suffer once wage rates return to their previous level at the end of the project. They also fear that good workers will leave after the project ends, seeking work on other federal projects. Such sentiments are expressed in the following response to Thieblot's survey:

> "Our experience has been that it [Davis-Bacon] creates bad feelings among the men, especially when one group is working on a private job and the other on a public job; there is much jealousy. The men on DB have a tendency to slow down in order to extend the job. . . ."[54]

A deterioration of morale was one consequence of the Act in the minds of 12.5% of the union and 22.6% of the open-shop contractors surveyed.[55] In response, these contractors may decide not to bid on Davis-Bacon work. As one contractor testified:

> Where our company has several projects going at the same time, such as sewage or water treatment plants, sewer lines and bridges, we find that we cannot deviate greatly in the wage paid to men on the same type of work.
>
> In other words, we would not retain our organizations if we paid some of our men the wage rates as negotiated and prevailing for heavy construction work and others on the basis of building construction resulting from a Davis-Bacon determination.

> We find ourselves—and we know it is true of other contractors who have been engaged in sewage plant construction—faced with the prospect of abandoning this type of work after years of gaining knowhow."

Responses to Thieblot's questionnaire give some idea of the extent of this reaction. Asked about doing work covered by the Davis-Bacon Act in the future, 5.5% of the union and 20.2% of the open-shop firms said they were *not* interested in such work."

If the potential problems associated with doing Davis-Bacon work discourage some firms from bidding, the decreased competition may well lead to higher construction costs. Contractors will usually have a good idea of the number of potential bidders and will take this into account in determining their bid.[78] With higher mark-ups and/or fewer firms especially eager for work, the winning low bid will tend to be higher.

Demand and substitution effects

Responses to high wages on federal construction projects may also affect wages and costs on private projects. In areas with a substantial amount of government construction, higher wages on government projects will attract workers away from other jobs in construction and in other sectors of the economy. Thus, other employers will have to pay more to get labor unless the supply is very elastic. Such a rise in wages in response to an increase in demand would occur even without the Davis-Bacon Act. However, the law might accentuate the increase due to its effect on elasticity by making some firms reluctant to bid.[79] It will perpetuate higher wages for reasons stated earlier. Some contractors complain loudly about such increases, not distinguishing the demand effects from the Davis-Bacon effects. Bourdon and Levitt conclude, based on their interviews and a review of the literature, "The diversity of policies by which open-shop firms react suggest that any direct wage spillover effect is confined apparently to a relatively few firms."[80] If there is any effect, it comes through the long-term impact on the degree of unionization. To the extent that union rates and union practices are established as "prevailing," employer resistance to unions is lessened. As unionization increases, so will bargaining power and wage rates.[81]

On the other hand, if the government's demand is not, as some assume, perfectly inelastic, then higher costs per building will bring about a decline in the total number of federal construction projects. As construction companies get "hungrier" for work, more will bid on private jobs, lowering costs there. Similarly, more workers will compete for work on these private construction jobs, exerting downward pressure on wages. The spillover effects are indeterminate and depend largely on federal government actions with respect to funding and to unemployment compensation and on the elasticity of supply.

The procedure commonly used to estimate the effect of the Davis-Bacon Act on construction cost is also erroneous in assuming that firms will continue to use the same amount of labor. Profit-seeking contractors will try harder to conserve on labor when the wage rate is raised through application of the prevailing wage. They can substitute capital and other resources for labor. Although some would argue that construction firms have little flexibility, Jerry Pohlman finds differences in the on-site manhours per $1,000 of construction between the low-wage South and the rest of the country.[82] This is not entirely due to differences in prices because on-site employee hours per 100 square feet in commercial office buildings are also higher in the South than in the Midwest and West (but lower than hours in the East).[83] Some changes do seem to be possible. Contractors can make greater use of machinery. They can also replace on-site labor with off-site labor not covered by Davis-Bacon through utilizing more prefabricated parts. Prefabricated components are made at relatively cheaper industrial rates and generally in larger volume and with more specialized equipment than an individual contractor could employ. Examples of commonly used labor-saving parts include prefabricated roof trusses, prehung doors and drywall instead of plaster. Less common are finished wall panels or drop-in stairs or utility cores. Entire buildings of metal or concrete are factory-produced and merely assembled on a slab at the site.

If, by substituting other inputs for labor, contractors can save some costs, then the procedure most authors use will overstate the Act's effect on construction costs. Gould and Bittlingmayer use a modified version of the basic computation to allow for this possibility. Their numbers do not represent the actual cost effect of Davis-Bacon but a range of possible effects depending on the value of key numbers. Values used are those which either seem plausible or which are taken as representative of what others have found in their surveys. They base their estimates of the wage differential due to the Davis-Bacon Act on the gross union-nonunion wage differential on the grounds that if the prevailing wage is above the open-shop rate only union contractors will bid. The figures they use—20 percent, 40 percent, and 60 percent—are clearly too high to represent the average" effect of Davis-Bacon on wages. If those projects where the Davis-Bacon Act had no effect are averaged with the estimated increase where it is higher than average, most estimates would be no more than 15 to 20 percent. The "wage premium" is then multiplied by either of two numbers which bracket the range of estimates of the proportion labor costs are of total costs (20 percent and 40 percent) to provide estimates of the effect of Davis-Bacon if there is no substitution. Gould and Bittlingmayer then present alternative estimates for the case where the elasticity of substitution equals one. These are derived from a cost function of the form, $c = aw^{\alpha}r^{1-\alpha}$, where c is cost, w is the wage rate, r is the return to all other factors, and a and α are constants. Allowing for substitution lowers the estimated impact by 7.5 to 13.8 percent (0.3 to 3.3 percentage points).[84] Gould and Bittlingmayer conclude that construction costs will increase between 5.0% and 20.0% (although their computations show a range of 3.7% to 24.0%).[85] For the 20% wage differential, the estimated cost effect is between 3.7 and 8.0 percent.

Labor costs reduced

Labor costs and, hence, total costs might be reduced if the higher wage rates attract more highly skilled workers (or firms using them) to work on Davis-Bacon projects. Paying less skilled workers the higher rate mandated on public projects would certainly raise costs. But if through use of more skilled workers, the hours needed to do the job decline or other expenses are reduced, costs will not rise by as much.[86] Such changes may come in many ways. More of the work is likely to go to union workers either because union contractors are the low bidders or because non-union contractors find "that currently unemployed union journeymen will often apply for work on public projects '. . . with their union card in the shoe.' "[87] Union journeymen will generally have received more training through union apprenticeship programs than nonunion construction workers have received through the less extensive training programs of open-shop contractors. The extra training may make it possible for them to do a job in less time, be able to respond more quickly and appropriately to problems and require less instruction and supervision at the job site. Bourdon and Levitt found that open-shop companies generally employed more foremen per journeyman than required under "best practice" for union companies. Union companies used an

average 0.1 foremen for every journeyman (or, alternatively, 1 foreman for every 10 journeymen). Non-union companies in Denver used, on average, 0.5 foremen per journeyman (or 1 foreman for every 2 workers), while in Boston such companies used 0.6 foremen per journeyman." Thus there would be some savings in cost not captured by the wage-based estimates of cost. In addition, quality may improve and less work need to be redone; recruitment costs may also be less.

Another alternative is for firms to be more selective in hiring or assigning employees to these jobs. If firms use only the most productive workers on public jobs, fewer total hours will be required to complete the project. The savings in hours may partially (or entirely) offset the increase in the wage rate. Bourdon and Levitt report that over one-half of the 119 non-union contractors they interviewed engaged in this practice, using the wage differential "to reward their most loyal and productive workers."[90]

Savings from better management

Better scheduling of work and deliveries and more attention to management in general can also result in a savings of labor hours. A number of engineering studies have documented the effect of management practices on productivity in construction. For example, in one study based on on-site observations of five large vinyl asbestos tile-laying jobs, an increase in the time spent on "on-site intracrew management and coordination" was found to be strongly correlated with the work rate (square feet of tile laid per hour spent laying tile) and to have a positive, non-linear influence on overall labor productivity (square feet of tile laid per total paid man-hour).[91] Delays caused by home office failures in making plans or specifications available or in coordinating deliveries of materials, work by other trades, and inspections wasted between 2 and 14 percent of total labor hours and reduced the work rate during remaining hours.[92] Similarly, craftsmen working on five nuclear power plants said that the problem which caused the greatest loss in productivity was the delays incurred when materials were not available when needed. Over half those surveyed thought such delays "had a significant adverse effect." The average estimated time loss ranged from 6.4 to 8.4 hours per week per worker, depending on the project.[93] Other problems which caused productivity to decline were tool availability, which caused an estimated loss of 3.4 to 5.1 hours per worker per week; overcrowded work areas, which caused an estimated loss of between 4.36 and 5.93 hours; and delays due to interference from other crews, which caused an estimated loss of 2.63 to 4.66 hours.[94] Work which had to be redone, either because of change orders, design problems, or poor workmanship took between 4.9 and 7.7 hours per man per week.[95] While problems stemming from poor design may not be susceptible to management efforts and problems of poor workmanship may be best solved through hiring a more skilled labor force, the problems caused by delays and poor scheduling clearly are within management's control.

Greater management attention to labor utilization has occurred in response to higher wage rates in other industries. For example, interviewing management and labor officials in six cement plants following unionization, Kim Clark found that all firms had made some changes in management methods. These included:

> . . . a more professional, businesslike approach to labor relations by front-line supervisors [was] the most common adjustment. In four of the six plants we found attempts to increase work effort and work group efficiency through introduction of formal methods of organizational control.[96]

Clark attributes most of the 6 to 8 percent improvement in productivity due to unionization to these changes, with only a 1 to 2 percent improvement in productivity due to changes in labor quality. In the construction industry, two such formal control methods, the critical path method and the program evaluation and review technique (PERT), have been developed to aid in planning and control. Whether or not these management tools are used more often on public projects (or by those contractors who are successful in bidding on such jobs) is unknown. However, Bourdon and Levitt report that

> It was also clear from the interviews that open-shop contractors, when required to pay higher wages to their workers, devoted more attention not only to worker selection and training, but also to on-site project management such as scheduling and equipment maintenance. Since management actions alone can contribute enormously to the productivity of labor, intensive on-site management probably has an even greater impact on reducing project cost than the worker selection efforts.[97]

The magnitude of the productivity increases to be obtained in such cases is often debated but little researched. Defenders of the Davis-Bacon Act —especially the building trades unions and union contractors —will stress the importance of the skill differential as leading to decreased time and supervision to do the job and as a guarantee of quality. Better workmanship, it is argued, not only cuts down the time spent redoing work but also means lower repair costs in the future. To repeal the Act would encourage firms to hire unskilled workers who do not have the same quality standards in order to be the low bidder. Those who doubt whether such factors can offset higher wage rates note that empirical results from other industries do not necessarily apply with equal force to construction, where firms are generally smaller, with fewer management personnel, and operating in a competitive environment. Critics claim[98] that any skill advantage is more than offset by union work rules or restrictions on labor utilization resulting from the Act itself.

There are no studies which directly examine productivity on projects covered by Davis-Bacon and those which are not. Two studies deal with the productivity difference between union and nonunion construction. These are instructive, in part to reveal what sorts of changes are most likely to take place and also because evidence seems to suggest that the Davis-Bacon Act shifts part of the work to union companies. In the earlier of the two studies, Allan Mandelstamm interviewed contractors in two Michigan cities to obtain their estimates of the cost and labor hours required to build a "standard small home." One of the cities, Ann Arbor, was heavily unionized and had wage rates higher than the other city, Bay City, which was only forty percent unionized. The higher rates in Ann Arbor were offset by greater productivity; contractors in Bay City estimated that the job would require 1,367 hours while those in Ann Arbor said it would require only 1,126 hours, or 17.6% less time.[99] As a result, the median estimates of total labor cost and price were nearly identical in the two cities.[100] Mandelstamm also found that union contractors within Bay City required 19.6 fewer labor hours than non-union contractors (1107 *vs.* 1377), although this difference did not completely offset the wage differential. Consequently, union contractors had a higher wage bill; however, the price of the union-built house was lower because materials cost and profit and overhead were lower for union contractors.[101] Based on interviews with contractors in the two cities, Mandelstamm concluded that the greater productivity in Ann Arbor was due to (in decreasing order of importance): competition from large Detroit builders induced greater efficiency, only more efficient workers were hired, union training programs produced "superior" workers, and high wages induced greater management efficiency.[102] Union work rules were not a significant factor in reducing efficiency because most were ineffective —they did not require the contractor to do things differently.[103]

Mandelstamm's method offers advantages over other studies by standardizing for building characteristics. It provides a way to determine whether union labor is sufficiently more productive so that higher wage rates are offset. However, it is difficult and expensive to do for a large sample. Also it is one thing to obtain bids on small houses and another thing to obtain bids on large projects. As few contractors would be willing to spend the time and effort working up a bid on a hypothetical project of large size or greater complexity, the usefulness of such an approach is limited. Even if cooperation were forthcoming, the numbers obtained are only estimates for a hypothetical case. They do not represent actual experience.[98]

A more recent study is the econometric analysis of Steven Allen. Adopting a model developed by Brown and Medoff,[99] Allen relates the variation from state to state in the value added per worker in construction to variations in capital per worker, labor quality (as measured by age and education or a labor quality index derived from separate wage equations), industry subdivision, region, a variable measuring the "recentness" of the capital stock, and degree of unionization. Allen finds that, other things being equal, the unionization variable has a positive and significant effect on productivity. "The results...indicate that union workers in each industry in each region are at least 45 percent more productive than their nonunion counterparts."[100] A productivity effect of this size would offset the effect of what Allen estimates to be a 43 percent higher union wage.[101]

Differences in value added may reflect not differences in productivity but differences in prices which are not adequately controlled for by the regional variable. When Allen introduces a state price index, the union productivity effect shrinks to 38 percent or becomes not significant statistically, depending on the model used.[102] This suggests that at least a portion of the productivity effect is really a price effect. Allen also offers evidence on hours worked per year to support his contention that it is productivity effects, not variations in labor input, that his coefficient is measuring.[103]

In spite of the flaws introduced by Allen's choice of variables and data, assumptions about interstate variations in hours worked, and level of aggregation, his results certainly suggest that there is some productivity effect, although perhaps not as large as a 45% difference. Unfortunately, his model does not allow us to discern the source of the productivity differences.

Whether the higher-than-average wage prevailing on some Davis-Bacon projects would also induce such productivity gains is a somewhat different question. Because firms will not face the higher wage scale on all projects, they may not find it worthwhile to make the adjustments which would bring about productivity gains. Unionization is more permanent. The firm's ability to make such changes may also be constrained by union or government rules. Construction workers who will not always receive the higher wage may not be as willing to invest in training.

Study total costs directly

To examine the effect of the Davis-Bacon Act, allowing for wage increases, any changes in labor hours, and any increases in other costs, one must look at total project costs directly, not at wages. There are few studies which do this. Thieblot examines rebidding during the brief suspension of the Act in 1971. There were 398 projects for which bids had been received but contracts not awarded at the time of suspension. New bids were solicited for each. Many of the firms originally bidding on the projects rebid. Some (11%) merely resubmitted the same bid but 65% of the firms lowered their bids. The average decrease was 2.93 percent.[110] Thieblot then examines the low bids on each project because he thinks this measure eliminates much of the effect of the atypical information contractors had about competitors' initial bids. The difference between the initial bid and the lowest rebid was 0.63%. On an annual basis, such a saving would amount to $240 million.[111] Thieblot argues that this understates the effect of Davis-Bacon since normally prices would have risen 1 or 2 percent during the rebid period due to inflation. Making the inflation adjustment, he estimates the cost of the Davis-Bacon Act to be $620 million to $1 billion.[112] These estimates are considerably below the $2.1 billion he derived from his survey information. As both the temporary nature of the suspension and the unusual nature of the rebidding process and the information contractors gleaned about competitors' bids make this situation atypical, these estimates are useful only to reinforce others. They do not stand alone.

State laws studied

No study attempts to capture all the effects of the federal Davis-Bacon Act. One study by Steven Allen and David Reich does examine the effects of state prevailing wage laws on construction costs directly. They examine interstate differences in average cost per elementary and secondary school building. Allen and Reich use standard multiple regression to separate the effects of prevailing wage laws, interstate price level differentials, climate, and urbanization on school costs. They conclude:

> Once differences in price levels, urbanization, and climate are adjusted for, there appears to be no significant relationship between the presence or absence of prevailing wage laws and the level of school construction costs.[113]

There are several problems with their model. They assume that schools built in the states without prevailing wage laws are not subject to any wage requirements. However, an unknown portion of the schools in these states may have received federal funds and been covered by the federal Davis-Bacon Act. The consequence would be a downward bias in Allen and Reich's coefficient of the Davis-Bacon variable. Another problem relates to the issue of heterogeneity of classrooms. While classrooms are reasonably comparable as construction projects go, use of technical characteristics (e.g., type of structural frame, type of wall, size) in the regressions would have improved the results.

The authors demonstrate that average classroom cost, once adjusted for differences in interstate price levels, bears little relation to the presence or absence of state prevailing wage laws. While it is clear that price levels differ from state to state, it is equally clear that we do not know why and, in particular, we do not know the extent to which such differences are attributable to prevailing wage laws. To adjust nominal construction costs as Allen and Reich have done is to assume that these laws do not matter, for the indices applied incorporate whatever inflationary effects these laws might have.[114] Consequently the exercise does not provide a clear test of their impact on cost.

As the preceeding pages document, most of the analyses of the Davis-Bacon Act have dealt with the law's effect on wages. Few of the studies have directly dealt with the effect on cost. For the most part, economists have estimated the percentage increase in costs by multiplying the percentage increase in wages by the ratio of labor costs to total cost. The rebids of contracts during the 1971 suspension of Davis-Bacon also provide some very limited information on costs.

We think that a more direct approach to measuring the effect of the Davis-Bacon Act is needed. Although the calculation above is useful for roughly approximating the effect on costs, it does not take into account productivity differences, substitution of other inputs for labor, or the cost of reporting and record-keeping. The first two would tend to keep costs from rising so much, while paperwork costs would add to the total increase. There is no *a priori* reason why these opposite effects

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would cancel. The only study to allow for such variations by analyzing the total costs of Davis-Bacon projects is that of Allen and Reich, but their study contains a number of methodological problems.

More studies have not been undertaken because there is no good information n costs for individual construction projects with known characteristics (to standardize the product). Because we think a study of the variations in total cost is the superior approach to look at the effect of the Davis-Bacon Act, we had first to gather this type of information. The steps followed in doing so are described in the next chapter.

[1] U.S. Congress, House, Committee on Education and Labor, *Davis-Bacon Act-Fringe Benefits: Hearings before the General Subcommittee on Labor*, 88th Cong., 1st sess. (1963), p. 3.

[2] *Ibid*, p. 164.

[3] U.S. Congress, House, Committee on Education and Labor, *Amendments to the Davis-Bacon Act, and a Bill to Establish a Work-Hours Act: Hearings before the Special Subcommittee on Labor*, 87th Cong., 2nd sess., (1962), p. 84.

[4] For a summary of these laws, see Armand J. Thieblot, Jr., *Prevailing Wage Laws of th. States and the District of Columbia*, (Washington, D.C.: The Merit Shop Foundation, 1980).

[5] 40 USC 276(a), as amended.

[6] As of April 30, 1977, 77 statutes have required the payment of the Davis-Bacon prevailing wage. U.S. General Accounting Office, *The Davis-Bacon Act Should Be Repealed*, (Washington, D.C.: General Accounting Office, 1979), p.3.

[7] *Ibid.*

[8] *Ibid.*

[9] U.S. Office of the Federal Register, *Code of Federal Regulations*, 1978, Title 29; Part 1.

[10] Changes made less than 15 days prior to the opening of bids may be adopted at the discretion of the contracting agency.

[11] Armand J. Thieblot, Jr., *The Davis-Bacon Act*, Labor Relations and Public Policy Series, Report No. 10, (Philadelphia: University of Pennsylvania Press, 1975), p. 33.

[12] General Accounting Office, *op. cit.*, p. 42.

[13] Project determinations are valid fc: 120 days and for that particular project only.

[14] During fiscal year 1977, the DOL made 17,931 wage determinations, each containing wages for many different classifications of workers. U.S. General Accounting Office, *op. cit.*, p. 6.

[15] The surveys that are done are usually mail or telephone surveys "never verified to contractors' payroll records...." *Ibid*, p. 40. Furthermore, the response rate to these surveys is usually low —only about 30 percent nationwide, according to DOL estimates. *Ibid*, p. 46.

[16] Michael Callas, "Statement before the Labor Subcommittee of the Senate Labor Subcommittee on the Davis-Bacon Act," mimeographed. (Washington, D.C.: Associated Builders and Contractors, 1981), pp. 1-2. The GAO has pointed out that use of project data results in double counting of those workers (and their wage rates) who frequently move from one project to the next. General Accounting Office, *op. cit.*, p. 51.

[17] Thieblot, *The Davis-Bacon Act*, *op. cit.*, p. 83.

[18] General Accounting Office, *op. cit.*, p. 40.

[19] The percentage of determinations carrying union rate varied from 67 percent for laborers in heavy and highway construction to 100 percent for plasterers. D.N. Gujarati, "The Economics of the Davis-Bacon Act," *Journal of Business*, Vol. 40, (July 1967), pp. 306-309.

[20] General Accounting Office, *op. cit.*, p. 43.

[21] Thieblot, *The Davis-Bacon Act*, *op. cit.*, p. 50.

[22] This practice has been vigorously attacked by the GAO as contrary to the spirit and legislative history of the law. General Accounting Office, *op. cit.*, p. 37.

[23] Robert S. Goldfarb and John Morrall report that a former director of the Division of Wage Determination estimated the lag to be 6 to 8 weeks. Robert S. Goldfarb and John F. Morrall III, "Cost Implications of Changing Davis-Bacon Administration," *Policy Analysis*, Vol. 4, no. 4, (Fall 1978), pp. 447-448.

[24] Although the category "heavy construction" is commonly used, the GAO concluded that there was too much variation within the group for meaningful wage determinations. Thieblot reports that the DOL will sometimes have special rates for subcategories of heavy construction such as sewers or dams. Thieblot, *Davis-Bacon*, *op. cit.*, pp 62-63.

[25] See, for example, the cases cited in the GAO report. General Accounting Office, *op. cit.*, pp. 158-162.

[26] Thieblot, *The Davis-Bacon Act*, *op. cit.*, p. 61.

[27] *Ibid*, pp. 109-120.

[28] U.S. Congress, House, Committee on Education and Labor, *Administration of the Davis-Bacon Act: Hearings before the Special Subcommittee on Labor*, 87th Cong, 2nd sess., (1962), pp. 31-33.

[29] *Ibid*, pp. 4-7.

[30] Renault Robinson, "Statement before the Senate Labor Subcommittee, April 29, 1981," (mimeographed).

[31] U.S. Congress, House, *Administration of the Davis-Bacon Act*, *op.cit.*, pp. 325-454.

[32] Thieblot, *Davis-Bacon*, *op. cit.*, pp. 121-126.

[33] General Accounting Office, *op. cit.*, pp. 163-165.

[34] Michael Callas, *op. cit.*, p. 5.

[35] For further discussion of this point, see page 7.

[36] Gujarati, *op. cit.*, pp. 315-316.

[37] These calculations are based on the data from Gujarati's Table 1. Gujarati, *op. cit.*, p. 306. The other two categories are not su' divided, presumably on the grounds that the survey or payroll evidence is local.

[38] Gujarati, *op. cit.*, p. 307.

[39] *Ibid*, pp. 308-309.

[40] *Ibid.*, p. 310.

[41] *Ibid.*

[42] Prior to this study, the GAO had made several other surveys; most were small samples, not randomly selected. In a 1971 summary, it concluded that inappropriate wage determinations had raised costs an average of 5 to 15 percent. U.S. General Accounting Office, *Need for Improved Administration of the Davis-Bacon Act Noted Over a Decade of General Accounting Office Reviews*, cited in John P. Gould and George Bittlingmayer, *The Economics of the Davis-Bacon Act*, (Washington, D.C.: American Enterprise Institute, 1980). p. 23.

In addition, numerous case studies and examples also provide estimates of the effect of DOL procedures on wage rate and costs. The selection of a project as an example is certainly not random but is based on the expectation of a large effect to illustrate a point. This is especially true since many involve wage determinations that have been appealed (providing much data). Consequently, these estimates of wage and cost effect of the Act are likely to be biased and are not included here.

[43] General Accounting Office, *Davis-Bacon*, *op. cit.*, p. 71.

[44] *Ibid*, p. 75.

[45] General Accounting Office, *Davis-Bacon*, *op. cit.*, pp. 72, 74.

[46] *Ibid.*, p. 69.

[47] *Ibid.*, p. 73. An earlier study by the GAO found a 33 percent increase in wages on housing projects in New England. Gould and Bittlingmayer, *op. cit.*, p. 23.

[48] *Ibid*, p. 78. The second calculation produced the lower cost estimate since the 12 affected projects were 40% of total projects but only 17.8% of the value of construction.

[49] *Ibid.*, p. 222.

[50] General Accounting Office, *Davis-Bacon*, *op. cit.*, pp. 256-257.

[51] Robert S. Goldfarb and John F. Morrall III, "The Cost Implications of Changing Davis-Bacon Administration," *Policy Analysis*, Vol. 4, No. 4, (Fall 1978), p. 446. They also note that the Davis-Bacon rates exceeded the average in only 18 of 53 cases.

[72] Robert S. Goldfarb and John F. Morrall III, "The Davis-Bacon Act: An Appraisal of Recent Studies," *Industrial and Labor Relations Review*, Vol. 34, No. 2, (January 1981), p. 197.

[73] Goldfarb and Morrall, "Cost Implications," *op. cit.*, pp. 448-449.

[74] Goldfarb and Morrall, "The Davis-Bacon Act," *op. cit.*, p. 199.

[75] Evidence to the contrary is presented in the GAO report, a comment on the Goldfarb-Morrall article by Jerome Staller, and in the work of Clinton Bourdon and Raymond Levitt cited below. General Accounting Office, *Davis-Bacon, op. cit.*, p. 43; Jerome Staller, "Communications to the Editor," *Policy Analysis*, Vol. 5, No. 3, (Summer 1979), pp 397-398.

[76] Clinton C. Bourdon and Raymond E. Levitt, *Union and Open-Shop Construction*, (Lexington, Massachusetts: D. C. Heath Co., 1980), p. 94. Only about 10% were different and these were lower than union rates.

[77] *Ibid.*

[78] *Ibid*, p. 123.

[79] Thieblot, *Davis-Bacon*, op. cit., p. 153.

[80] *Ibid*, p. 158.

[81] *Ibid*, p. 157. Thieblot multiplied the proportion of contractors who were affected times the average percentage increase in wages (36) times the proportion contractors estimated labor costs were of total costs (31.35).

[82] *Ibid*, p. 162.

[83] *Ibid*, p. 161.

[84] *Ibid*, p. 77.

[85] General Accounting Office, *Davis-Bacon, op. cit.*, p. 83.

[86] *Ibid.*

[87] Thieblot, *Davis-Bacon, op. cit.*, p. 162.

[88] Anonymous respondent quoted in Thieblot, *Davis-Bacon, op. cit.*, p. 165.

[89] Ibid., p. 80.

[90] *Ibid.*

[91] General Accounting Office, *Davis-Bacon, op. cit.*, pp. 230-232.

[92] U.S. Congress, House, *Administration, op. cit.*, pp. 176-178.

[93] Bourdon and Levitt, *op. cit.*, p. 57.

[94] Thieblot, *Davis-Bacon, op. cit.*, pp. 165-166.

[95] *Ibid*, p. 159.

[96] U.S. Congress, House, *Administration, op. cit.*, p. 33.

[97] Thieblot, *Davis-Bacon, op. cit.*, p. 163.

[98] Julian E. Lange and Daniel Quinn Mills, *The Construction Industry*, (Lexington, MA: D.C. Heath, 1979), p. 29.

[99] Gould and Bittlingmayer, *op. cit.*, pp. 52-54.

[100] Bourdon and Levitt, *op. cit.*, p. 99.

[101] For a further exposition of this point, see Herbert Northrup and Howard Foster, *Open Shop Construction*, Industrial Research Unit-Major study No. 54, (Philadelphia: University of Pennsylvania, 1975), pp. 123-127.

[102] Jerry E. Pohlman, "Hard-Core Unemployment, Public Housing Construction and the Davis-Bacon Act," *Labor Law*, Vol. 22, No. 4, (April 1971), p. 199-200.

[103] Barbara Bingham, "Labor and Material Requirements for Commercial Office Buildings," *Monthly Labor Review*, Vol. 104, No. 5, (May 1981), p. 43.

[104] Wage effects have been estimated to be this large for some individual projects.

[105] *Ibid.*

[106] Gould and Bittlingmayer, *op. cit.*, p. 51.

[107] Firms might try to save on labor costs by substituting less skilled workers for whom the prevailing wage is less. Opportunities to do this under Davis-Bacon are limited by the requirement that workers be paid the prevailing wage for workers doing that type of work. See page 6.

[108] Clinton C. Bourdon and Raymond E. Levitt, "Cost Impacts of Prevailing Wage Laws in Construction," *Journal of the Construction Division, ASCE*, Vol. 105, No. CO4 Proc. Paper 15019, (December 1979), p. 284.

[109] Bourdon and Levitt, *Union and Open Shop Construction, op. cit.*, p. 50.

[110] Bourdon and Levitt, *Union and Open-shop Construction, op. cit.*, p. 98.

[111] Robert Logacher and William Collins, "Management Impacts on Labor Productivity," *Journal of the Construction Division, ASCE*, Vol. 104, No. CO4, (December 1978), pp. 455-456.

[112] *Ibid*, pp. 454-456.

[113] John Borcherding, Scott Sebastian, and Nancy Samelson, "Improving Motivation and Productivity on Large Projects," *Journal of the Construction Division, ASCE*, Vol. 106, No. CO1, (March 1980), p. 77.

[114] *Ibid*, pp. 76-77.

[115] *Ibid*, p. 80.

[116] Kim Clark, "The Impact of Unionization on Productivity: A Case Study," *Industrial and Labor Relations Review*, Vol. 33, No. 4, (July 1980), p. 467.

[117] Bourdon and Levitt, *Union and Open-Shop Construction, op. cit.*, p. 98.

[118] U.S. Congress, House, *Davis-Bacon—Fringe Benefits, op. cit.*, pp. 250-257.

[119] Allan B. Mandelstamm, "The Effects of Unions on Efficiency in the Residential Construction Industry: A Case Study," *Industrial and Labor Relations Review*, Vol 18, No. 3, (1965), p. 506.

[120] *Ibid*, The labor cost estimates were $3,894 in Bay City and $3,938 in Ann Arbor. Median price estimates were $12,303 for Bay City and $12,690 for Ann Arbor.

[121] *Ibid*, p. 507.

[122] *Ibid*, pp. 520-521.

[123] *Ibid*, pp. 508-512.

[124] Bids are often not the final costs of construction. Change orders, extra work, or delays can result in higher costs.

[125] Charles Brown and James Medoff, "Trade Unions in the Production Process," *Journal of Political Economy*, Vol. 86, No. 3, (June 1978).

[126] Steven G. Allen, *Unionized Construction Workers Are More Productive*, (Washington, D.C.: Center to Protect Workers' Rights, 1979), p. 11.

[127] *Ibid*, pp. 11, 18.

[128] *Ibid.*, pp. 12-13. For a discussion of his procedure, see page 44.

[129] *Ibid*, pp. 13-15.

[130] Thieblot, *Davis-Bacon, op. cit.*, pp. 90-92.

[131] *Ibid*, p. 94.

[132] *Ibid.*

[133] Steven G. Allen and David Reich, *Prevailing Wage Laws Are Not Inflationary*, (Washington, D.C.: Center to Protect Workers Rights, 1980), p. vi.

[134] This is particularly obvious when the authors use the Dodge price index to measure interstate price level differences (Allen and Reich, p. 24). As a construction price index, it is not surprising that this variable is a significant determinant of school construction costs. The model as specified is therefore misleading in that it allows one to ascribe variation in school costs to general price level differentials when the more basic cause may be prevailing wage legislation.

CHAPTER 2. METHODOLOGY

In our view, the best way to estimate any effect of the Davis-Bacon Act on construction costs is to compare the actual cost of various buildings. This approach will capture a number of indirect effects of the Act as well as the direct effect of higher wage rates on federally-funded projects. For example, to some extent contractors may be able to offset the higher wage rates by employing more skilled workers who require less supervision and fewer hours on the job. They may also keep costs down by substituting other inputs for on-site labor through greater use of equipment and prefabricated parts. Our approach will also capture the effect of the extra cost imposed on the contractor for record-keeping and general administration. In addition, the necessity of paying higher wages may deter some construction companies from submitting a bid, the resulting decrease in competition may result in higher costs. In order to find exactly how much Davis-Bacon added to construction cost we would need to compare actual cost with what the government projects would have cost if there were no such law. Although we can never know the latter since such information does not exist, we can estimate what these buildings would have cost without the prevailing wage law by comparing them to privately-built structures to which the Davis-Bacon Act does not apply. In doing so, we are implicitly assuming that in the absence of Davis-Bacon, public buildings would cost the same as private buildings do now. To the extent that the degree of unionization and hence the mean wage paid on private projects is greater than would be the case in the absence of Davis-Bacon, this procedure will underestimate the effect. On the other hand, by discouraging firms from bidding on public projects, Davis-Bacon may result in more firms competing instead for privately-funded jobs. Thus, to the extent that this causes construction costs on private projects to be less now than they would be in the absence of prevailing wage requirements, our procedure will overstate the effect of the Davis-Bacon Act. Because projects subject to the federal Davis-Bacon Act are also subject to other federal regulations, we might overstate the effect of the prevailing wage law by attributing to it cost-raising effects of other federal requirements. More complicated empirical models could be developed to incorporate some of these effects; however, at this point getting cost data so that even a simple model can be estimated is a major step forward.

Simple cost comparison misleading

A simple cost comparison between construction subject to the Davis-Bacon Act and privately-financed construction would be misleading. Many other factors influence the cost of a particular building. Certainly, one would expect that larger buildings would cost more in total than smaller buildings. For this reason the building square footage should be included in the model. Another problem arises from the fact that buildings are not homogeneous products but are built in different designs with different materials for different uses. Variation in cost may be due to differences in physical features as well as Davis-Bacon. For example, one would expect a public building with marble walls to cost more than a privately-owned building of the same size with metal sides even in the absence of any prevailing wage law. If we did not standardize for the type of building, we might attribute to Davis-Bacon cost differences that are really due to variations in building characteristics. Multiple regression is the tool we will employ to estimate the effect of Davis-Bacon while holding constant the building characteristics and other variables:[1]

Our basic model is

$$C = a + b_1 SF + b_2 T + b_3 B + b_4 R + b_5 DB + e$$

where
- a is a constant,
- b's are regressions coefficients (constants),
- C is building total cost,
- SF is building square footage,
- T is a vector of building characteristics,
- B is a vector of building types,
- R is a vector of regional variables,
- DB is a variable indicating whether or not Davis-Bacon applies,
- e is the error term.

The coefficient b_1 on the Davis-Bacon variable provides an estimate of the increase in costs attributable to the prevailing wage law.

Data on individual projects in rural areas appropriate for estimating this model are not available. In order to gather such information, we had to design a survey instrument. In our discussions with local industry people, it became clear that most contractors probably would have the information we needed. Because of the time involved and the sensitivity of the data, personal interviews would be the only approach likely to succeed.

In order to design an interview schedule (questionnaire),[2] we had to specify exactly the variables about which we needed information. The first group of variables are those relating to the physical characteristics of the building. Obviously we would want to begin with a brief description of the project *(i.e.*, school, cannery, retail store, or warehouse) and its location. Knowing the location of the building, we can assign it to one of the four Census regions and determine the value of the regional variables. We also need to get information about the size of the building as measured by the square footage of floor space within the building. Square footage is only one measure of the size of a project. *Engineering News Record's* "parameter costs" include several other measures of size: gross area supported, area of exterior wall, roof area, perimeter (linear feet), and story height.[3] Conversations with local industry experts convinced us that many contractors—especially the smaller companies we were likely to find in rural areas—would not have much of this information.[4] To prevent the interview schedule from becoming too long, we decided to include the number of stories (including basements) as our only other size measure.

Next came the task of identifying those physical characteristics which contribute to variation in cost. We attacked the problem by dividing the building into its major components: the foundation, the structural or weight-bearing frame, the structural flooring, the exterior walls, the roof, the interior walls, and the floor and wall finishings. Then we tried to identify the alternative methods of constructing each component—the major types of structural frames or the major wall coverings, etc. Our goal was to balance having a complete list of important physical characteristics with the desire to keep the interview short. To do this, we reviewed several texts and guides for construction cost estimating[5] and consulted with members of the Oregon State University Department of Construction Engineering Management. From these sources we drew up a list of major methods of construction of each component, combining similar categories (based on cost and type of materials) where we could. Because we knew it would be impossible to include every alternative, each category contained "other (please specify)" as one possible choice. The most difficult building component to specify was the mechanical element—the electrical, plumbing, and heating-ventilation-air-conditioning systems. The size of the system (load) as well as type would probably make some

difference but the questions became too complex, especially considering that a general contractor almost never does this work himself. In the end, we decided to ask whether the building was air-conditioned and if it contained a sprinkler system and let the regional variables pick up the effect of weather differences on the size and cost of installing heating and air-conditioning systems. Site preparation is also an important part of the construction job and our consultants urged us to include some variable to account for differences in this aspect. Instead of listing a series of soil types and topographic conditions, we included a list of potential site preparation problems that might be expected to increase costs. We chose this method because we again believed that a general contractor would know what the problems were even if he did not know more technical things like soil type. Finally, because we wanted to see if contractors offset higher wages by increasing their use of prefabricated parts, we included a list of the more common prefabricated components (such as roof trusses).[6] The final version of the questionnaire includes a list of 67 building characteristics (60 structural characteristics, 5 site preparation alternatives, plus the two questions about sprinklers and air-conditioning) and 7 prefabricated components. Since characteristics are grouped by major building elements, the interviewer had merely to ask what type of frame or what type of floor covering was used, read the list, and check the response(s) given.

The second part of the questionnaire consists of requests for cost data. We needed information on the total costs of construction, the dependent variable in our model. To get this, we asked the contractor what he was paid for constructing this building (his revenues or receipts). In the majority of cases, this will be the amount of the bid plus any change orders. We also wanted information on other costs in order to assess how Davis-Bacon affected costs. Since the direct impact is on wages, we included questions about the wage rates paid to each group (craft) and how those wages compared to what was usually paid. We also included questions about hours and total labor costs. If union labor is more productive—as some recent studies have found—then the average hours worked on buildings of a given size and type would be less for the projects subject to the prevailing wage requirement. In addition to labor costs, we asked for the amount of each other major cost component: subcontracting costs, materials costs, equipment costs, other direct costs (such as financing, reporting, and project utilities) and overhead. This information is necessary to examine such issues as the substitution of capital for labor, the extra costs due to the clerical and managerial costs to ensure compliance, the impact of other government regulations, and the alleged tendency toward "gold plating" on government projects. The main problem we encountered was in designing the questions to fit a variety of accounting systems. While published sources[7] gave us some idea of what to expect, our main solution was to provide some flexibility in the questionnaire and detailed instructions to the interviewer on how to treat the different approaches.

There are two reasons why we might expect Davis-Bacon work to be more profitable than private construction jobs. First, if the prevailing wage requirements discourage some firms from bidding, the decreased competition could lead to higher bids and higher profits. Second, contractors may believe that the government will pay whatever is asked—that the government's demand is perfectly inelastic with respect to price. The contractor's profit on the sampled project can be calculated from the information on his revenues and his costs already requested. Profit as a percent of sales[8] can be calculated for the sample project and compared with the rate of profit on other sample projects. It would also be helpful to compare profit as a percent of sales on the sample project with what that contractor usually gets. To do this, we need information about the firm's annual sales (dollar volume of construction), the firm's annual profits, and whether or not it was unionized or operated double-breasted. Because large firms may be able to offset any Davis-Bacon wage effect by taking advantage of cost-reducing economies of scale, two additional measures of company size—the average number of employees and the value of the firm's assets—were requested.

Since changes are often made during construction, we studied only buildings which had already been completed. Otherwise, we risked getting only partial and potentially misleading data. Building records are usually kept according to when the project was begun, not when it was completed. Allowing for the time it takes to construct a building, we chose to examine only projects begun in 1977 or 1978.[9] To avoid attributing the cost-increasing effect of a general rise in material and equipment prices to Davis-Bacon, we must deflate all dollar figures. Converting actual costs to costs in 1977 dollars required that we know the date construction began and ended in order to select the appropriate value of the price index.

Last, but hardly least, we included questions about whether the project was subject to federal (Davis-Bacon) or state prevailing wage laws. We did this to double-check the information on which the project sample was based.

The items included in the questionnaire were dictated by our model and by the supporting analyses we wished to do. A copy of the interview schedule is included in Appendix A. The selection of the sample projects and the process whereby we gathered the information needed are discussed in the next chapter.

[6] For a further explanation of this model, see Chapter 4.

[7] For a copy of the completed questionnaire, see Appendix A.

[8] See, for example, "Parameter costs reported for three buildings," *Engineering News Record*, June 22, 1978, p. 102.

[9] Data for the projects described in *Engineering News Record* are supplied by some of the larger construction or architectural firms. The projects are usually large and located in urban areas.

[7] Lawrence Reiner, *Methods and Materials of Construction*, (Englewood Cliffs, NJ: Prentice-Hall, 1970) and Alonso Wass, *Building Construction Estimating*, (Englewood Cliffs, NJ: Prentice-Hall, 1963). An article published after we had written the questionnaire and begun interviewing takes a similar approach and identifies similar building characteristics as important. Barbara Bingham, "Labor and Materials Requirements for Commercial Office Building Projects," *Monthly Labor Review*, May 1981, p. 42.

[6] Raymond Sluza and Anne Ryan, *A Graphic Guide to Industrialized Building Elements*, (Boston: CBI Publishing Co., 1977).

[7] Paul Lucas, *Accounting Guide for Construction Contractors*, (Englewood Cliffs, NJ Prentice-Hall, 1973) and James Adrian, *Construction Accounting*, (Reston, VA: Reston Publishing Co., 1979).

[8] While profit as a percent of owner's equity is the measure economists prefer, that concept has little meaning on a project basis. We can not substitute some average for all projects since the product is far from homogeneous.

[9] In practice this meant projects for which the permits were issued or funds appropriated during 1977 or 1978. Construction may actually have started in late 1976 or early 1979. (See Chapter 3). Some of the larger buildings had, in fact, been completed just a few months before interviewing began in 1980.

CHAPTER 3. DATA COLLECTION

The first step in gathering data on construction costs was to choose a sample of projects. In order to do this, we first selected a sample of 100 rural counties and then made as complete a list as possible of all non-residential buildings begun in those areas in 1977 and 1978. Finally, from this list we selected a sample of similar federally-funded and privately-financed buildings for the survey.

In order to choose the sample of 100 rural counties, we first listed all those counties which fit the Department of Housing and Urban Development's (HUD) definition of a rural county. A county was considered rural if it was not part of a Standard Metropolitan Statistical Area (SMSA) and if in 1970 the population of its largest city did not exceed 20,000 or, for those counties within a SMSA, if the population of the largest city did not exceed 10,000. There were 2,413 such rural counties in the 48 contiguous states in 1970. A total of 45,681,649 people resided in these counties in 1970. The rural population was distributed by region as indicated in Table 3-1 below. The sample counties were chosen so that the distribution among the regions within the sample of 100 counties was approximately the same as the distribution of the rural population among the four regions. However, to ensure that we had enough observations to make regional estimates, we established a minimum of twelve counties per region. Thus, 12 of our sample counties are in the Northeast, 33 are in the Midwest, 43 are in the South, and 12 are in the West. Within each region, the counties were randomly selected with the probability of a county being included proportionate to its population. We used relative population to approximate the relative volume of construction activity since data on the latter were not readily available for non-residential construction by county. Using the same procedure, we also drew a list of replacement counties to be used in case we found we could not use one or more of the original sample.

Permit data sought

In order to develop a list of the non-residential buildings begun during 1977 and 1978, we sent a request for information letter and form for recording the data to the permit-issuing places within each county. We obtained a list of the permit-issuing places from *Construction Reports*, Series C40, "Housing Authorized by Building Permits and Public Contracts." This report contains statistics on new permits for residences for each of the 16,000 places which have local building permit systems. We sent letters to each governmental unit (county, city, village, or township) in the sample counties which had issued two or more permits within each of the last two years. We did not send letters to governmental units with negligible residential construction or which had not responded to the Census Bureau questionnaire. In the one instance in which no permit-issuing places were listed, we omitted that county from the sample and substituted the first county on the replacement list for that region. From each of the 484 places to which we sent letters, we requested a list of the following information for each of the non-residential buildings with a value of $10,000 or more: the date the permit was issued, the owner and type of building, whether the owner was a state, local, or federal agency or a private party, the name and address of the building contractor, and the estimated cost of construction. In many ways, our questions were similar to those asked by the Census Bureau.

Table 3-1: Rural population by region, 1970

Region	Rural population	Percent of total
Northeast	5,212,726	11.41
North Central	14,994,173	32.82
South	21,167,254	46.33
West	4,307,496	9.43
All Regions	45,681,649	100.00

After several weeks, we sent follow-up letters to non-respondents. In some instances, local government officials did not have the manpower to complete the forms themselves but were willing to allow someone from the study team access to the necessary information to do so. We tried such an approach when the first two places in a probability ordering (with probability proportional to population) of the permit-issuing places within a county had not responded to the mail queries. Using all these approaches, we achieved a response rate of 63.4%.

Few permits issued for Federal buildings

Although a number of sources had assured us that federal, state, and local governments were also required to get building permits, we found that many had not done so. Indeed, the only federal agency which seems to have done so on a regular basis is the U.S. Postal Service. Local school districts also seemed to be very conscientious about getting building permits for new construction. Whether the irregularity of building permit issuance for government projects reflects differences in local ordinances or whether it is due to differences in administrative practices in the agencies themselves, the consequence was that our permit search yielded an incomplete list of publicly-funded projects. To supplement our existing information, we searched the *Commerce Business Daily* for the years 1977 and 1978 for construction contracts let by federal agencies for projects in any of the sample counties. A list of projects funded by the Economic Development Administration under the Local Public Works programs provided information about a large number of construction projects which were at least partially funded by the federal government. Telephone calls to a number of federal agencies added still others. In the end, we believe our list of projects contained most, if not all, the federally-financed projects in the sample counties.

We checked each of the returned building permit forms for appropriateness of the projects and eliminated listings which were explicitly for remodeling jobs, residential construction, and construction of facilities which were not buildings. Buildings constructed for churches and fraternal organizations also were omitted since the extensive use of volunteer labor on such projects would make cost comparisons meaningless. The remaining listings were then characterized as to type of building and size. Each building was placed in one of the following categories:

1. *Amusement or recreational buildings* includes both school gyms and those built for others, athletic clubs, bowling alleys, arenas, theaters, auditoriums, and aquatic facilities (indoor).

2. *Storage facilities* including warehouses, barns, silos, airplane hangars and any other facility used primarily for the storage of goods.

3. *Industrial buildings* includes all buildings used for the production, processing or assembly of goods and/or the operation of machinery. This category includes factories, machine shops, school shops, repair garages, laundry and dry-cleaning plants, fire stations, and post offices. It also includes public utility buildings used to produce power, light, or heat or to process water or sewage or trash.

4. *Office-commercial* includes office or professional buildings, banks, courthouses, city halls, libraries, museums, community centers, retail or wholesale stores, restaurants, or other buildings used in buying, selling and distributing merchandise or materials or services.

5. *Medical* includes hospitals, health centers, clinics, nursing homes, retirement homes, and mental institutions.
6. *Other* includes all buildings not elsewhere classified.

We also assigned each project to one of the following size classes based on the reported estimated cost.

Size Class	*Estimated Cost*
Very small	$ 10,000- 49,999
Small	50,000- 99,999
Medium	100,000-249,999
Large	250,000-999,999
Very large	1,000,000 or more

Thus each project was characterized by both a type and size: for example, medium-sized office building, small storage facility, or large industrial project.

For each county we listed the federally-funded projects for inclusion in the sample. For those counties with no such projects, we listed the federally-funded projects constructed in contiguous rural counties. If no federally-funded projects appeared in either the sample county or adjacent counties, we substituted one of the replacement counties. Then, for each public project we listed all the privately-funded construction projects in that county which were of the same type and size as the federal projects. If only one private project matched, we added the pair of projects to the sample. If several projects matched, we randomly selected one private project to add to the sample along with the public project. Where we could not find a match from within the county, we used a similar procedure to randomly select a private project of the correct type and size from elsewhere within the region. If we could not find a match for the public project anywhere in the region, we excluded it from the sample. This happened in only a relatively few cases where the federal building was of an unusual type or size, such as a $25 million radar station. A flow chart summarizng this procedure is shown as Appendix B.

In carrying out this sampling procedure, we encountered the same problem that confronts the Department of Labor when it undertakes wage surveys: the lack of anything within the county that can reasonably be considered a comparable project. The critics of the Labor Department's administration of the law often protest the use of wages on projects outside the county or the use of wages on widely different projects. While this might not be the ideal procedure, the fact is that in many rural counties the volume of construction is sufficiently low that there are no obviously similar projects. The proposed public project might be a new office building or post office of 10,000 to 20,000 square feet but the only recent construction available for comparison might be a barn, a gas station, and a small store of only a few thousand square feet. Thus, like it or not, anyone attempting to find a comparable project must broaden the search to other years, other areas, or other types of projects. The selection of different types of projects within the same county as "comparable" might be justified for making some comparisons. However, when one is dealing—as we are—with total cost, the use of similar types of projects in other areas makes more sense. In terms of the types and hours of labor, materials, and capital required for construction, office buildings in two different counties are likely to be more homogeneous than an office and a barn in the same county. To minimize any problems created by differences in wage and price levels among counties, we confined our search for similar projects to other *rural* counties in the same region. Unlike the Department of Labor, we did not use projects in nearby urban areas.

After we had completed sampling, we had a list of 537 projects, half of which were federally-funded projects and subject to the federal Davis-Bacon Act, and half of which were privately-funded projects of similar type and size but not subject to either federal or state prevailing wage laws.[1] The distribution of the projects by region and type is shown in Table 3-2 below.

Contractors telephoned

We then telephoned the general contractors on all the sample projects. If the contractor was not listed on the returned permit form, we called the project owner to get the contractor's name, location and telephone number. We were not able to contact all contractors, either because we were unable to find a listing for the company or because our repeated attempts to reach the contractor at the listed number failed. The absence of a listing in either a contractors association directory or the area telephone directory could mean that the firm had gone out of business or had merged with another company. We do not know the exact number of such cases. On the basis of other studies (see, for example, that of Cassimatis)[2] which have documented the high rate of turnover in this industry, and on the basis of information from owners and permit-issuers, we know that some and suspect that most had ceased doing business. In all, we located the contractor on 461 (85.5%) of the 537 sample projects.

Once we had reached a contractor, we described the specific project in which we were interested and explained the nature of the study as a comparison of the costs and materials used for publicly and privately financed construction projects. In talking to contractors we sometimes discovered that the permit data had been misleading and that the project did not really fit the criteria for inclusion in the sample. Common examples include contracts which were actually for remodeling, not new construction, cases in which the owner had built the structure himself, and instances in which the permit had been issued but the structure had never been built. There were a total of 76 such cases. Thus, out of our original sample of 537, we eliminated a total of 152 (28.3%) cases because we discovered the projects were inappropriate or because we could not locate the general contractor. The remaining 385 projects were distributed among

Table 3-2: Sample Projects by region and type

Region	Total all types	Project type					
		Amusement	Storage	Industrial	Office-Commercial	Medical	Other
Northeast	70	6	1	20	40	2	1
North Central	182	6	10	64	90	4	8
South	226	5	3	62	124	16	16
West	59	1	2	14	37	3	2
All Regions	537	18	16	160	291	25	27
	100%	3.4%	3.0%	29.8%	54.2%	4.6%	5.0%

Table 3-3: Distribution of projects by region

Region	Original sample		After elimination	
	Number	Percent	Number	Percent
Northeast	70	13.04	50	12.99
North Central	182	33.89	122	31.69
South	226	42.08	159	41.30
West	59	10.99	54	13.70
Total	537	100.00	385	100.00

the regions as shown above. A chi-square test of the similarity of the regional distribution of the appropriate projects for which we could locate contractors to that of the original sample shows no significant difference ($X^2 = 3.840$, d.f. = 3). Distributions of the projects remaining after elimination by whether or not they were publicly funded (Davis-Bacon) and by type of project are shown in Tables 3-4 and 3-5. In both cases, a chi-square test shows no significant difference ($X^2 = 3.339$, d.f. = 1; $X^2 = 3.051$, d.f. = 5).

Table3-4: Projects by source of funding

Funding source	Original sample		After elimination	
	Number	Percent	Number	Percent
Public (Davis-Bacon)	268	49.91	210	54.54
Private	269	50.09	175	45.45
Total	537	100.00	385	100.00

Table 3-5: Distribution of projects by type

Type	Original sample		After elimination	
	Number	Percent	Number	Percent
Amusement	18	3.35	9	2.34
Storage	16	2.98	10	2.60
Industrial	160	29.80	112	29.09
Office-commercial	291	54.19	217	56.36
Medical	25	4.66	21	5.45
Other	27	5.03	16	4.16
Total	537	100.00	385	100.00

We then described the type of information we were seeking to the contractors on the 385 projects and asked their consent to an interview. A few refused outright; others were unavailable during the months the interviews were to be conducted in their area; some could not get the owner's consent which they felt was necessary. Once the contractor had agreed to an interview, a confirmation letter was sent. The actual scheduling was left to the interviewers.

Interviews were conducted by two groups. As a test of procedure and as a cross-check, we hired and trained a number of people with some business or accounting background. This group conducted many of the initial interviews. After we had tested the procedure and rewritten the questionnaire and interviewer's manual to incorporate their suggestions and experiences and to deal with as many potential problems as possible, this first group was replaced by a second group consisting of volunteers who were people with some bookkeeping, accounting, or business experience. The American Farm Bureau Federation helped locate many of these interviewers. Care was taken to select individuals who were willing and able to complete the assigned tasks.

Interviewing quality checked

We included many checks in our procedure to ensure that the data acquired would be accurate. Each interviewer was sent a detailed instruction manual which explained the procedure to follow and how to deal with unusual situations. We then conducted conference calls to review the manual with small groups and to answer any questions the interviewers might have. At each of these sessions, we stressed the importance of recording the information completely and accurately. Whenever possible, we selected an extra project to use as a test or "dry run". There were 66 such test projects. Any problems discovered could be handled before the contractors in the sample were interviewed. No opinion questions were included, although contractors were free to make any comments they wished recorded. Item responses were checked against the permit data and against each other for internal consistency. In addition, interviews were generally conducted in teams of two people to reduce the chance of response error. Finally, we made a number of spot checks to see if the interview had taken place and the information returned was correct. We found no evidence of interviewer bias or error affecting the data. Indeed, we were quite pleased with the effort and care these volunteers devoted to the task. We feel confident that the information collected is accurate and complete.

The first set of interviews was conducted during July and August of 1980; most of the remainder between March 1981 and July 1981. A total of 261 questionnaires was returned; of these, 215 contained usable data.[3] Chapter 4 contains an analysis of the data from these projects.

[1] Actually, we included one extra private project because we knew the type but not the size of one federal project in the West.

[2] Peter Cassimatis, *Economics of the Construction Industry*, (New York: National Industrial Conference Board, 1969) pp. 31-34.

[3] A more detailed analysis of response rates is presented in Appendix C.

CHAPTER 4. EMPIRICAL RESULTS

We can now use the data collected by the method described above to estimate the effect of the Davis-Bacon Act on construction costs. Our estimates are based on information from the 215 useable questionnaires received.

Description of the Data

Of the 215 projects, 113 (52.6%) are public buildings built entirely or in part with federal funds and therefore covered by the Davis-Bacon Act. The other 102 construction projects were privately funded and not subject to any prevailing wage requirements (state or federal). The regional distribution of the projects is shown in Table 4-1 below.[1] A majority (56.7%) of these buildings were classified as office-commercial. The rest were distributed among the types as follows:

Table 4-1: Distribution of Projects by Region

Region	Number	Percent
Northeast	19	8.8
North Central	68	32.6
South	89	41.4
West	39	18.1
Total	215	100.0

Table 4-2: Distribution of Projects by Type

Type	Number*	Percent*
Office-Commercial	122	56.7
Industrial	62	28.8
Storage	14	6.5
Medical	11	5.1
Amusement	8	3.7
Other	7	3.3
Total	224	104.1

* The total is greater than 215 (100.0%) because of multiple responses.

The buildings range in size from 1 to 5 stories and from 1,000 to 251,000 square feet. On average, the buildings contained 16,908 square feet. Although some types of construction, such as steel column and beam or wall-bearing masonry buildings, were more common than other types, the projects showed considerable variation in the type of construction. Tables showing the frequency of each type of construction for each major building component are presented in Appendix D.

The Effect of the Davis-Bacon Act on Firms

The Davis-Bacon Act is alleged to have a particularly strong effect in rural areas. This is usually attributed to DOL's use of wage rates from the nearest similar project, even if it is located outside the county, when the number of projects within the county is small. Critics claim that in practice this means use of data from urban areas which are not part of the same labor market. Not only does this raise wages but, they argue, it also makes it more difficult for local firms to compete against large urban firms. Is there any validity to the claims that these outside areas are not part of the same labor market and that the law makes it more, not less, difficult for local contractors to bid successfully on public projects? We did not collect data on the residence of the construction workers. However, we do know the general contractor's business location. We can at least see to what extent the surrounding counties are part of the same product market. Because contractors often take some employees with them on out-of-county jobs, examination of the contractor's location also gives us some insight into the extent of the labor market. In addition, such information allows us to examine directly the hypothesis that local contractors find it difficult to get Davis-Bacon jobs.

For each of the 385 appropriate projects for which we could locate the contractor, we determined the contractor's business address. Using an atlas, we located each of the cities from which they operated and determined whether or not it was in the same county as the project, a county bordering the one in which the project was located, or a non-contiguous county. As the figures in Table 4-3 show, contractors come from outside the county on a majority (52.2%) of the private projects. Furthermore, these contractors came from a non-contiguous county in 27.8% of the cases. Thus, not only may one market encompass more than one county, it may also include counties which are not contiguous to the one in which the building is to be constructed. Simularly, some urban contractors will be employed on projects in rural areas and will bring in the urban wage scale even without Davis-Bacon. In our sample, 62 (35.2%) of the private projects were built by urban contractors. While including such out-of-county wage rates is appropriate, they should not be used exclusively. To do so would give them a weight out of proportion to their importance in the local labor market.

There appears to be some validity to the charge that the way the Davis-Bacon Act is now administered puts local contractors at a disadvantage instead of ensuring local firms and residents their share of the jobs as the law apparently intended. Compared to contractors on private projects, contractors on public projects are less likely to be within the same county as the project. Only 27.8% of the public buildings were built by local contractors, compared to 46.6% of the private ones, a statistically significant difference ($X^2 = 16.84$, d.f. = 2, "don't know" excluded, $p < .05$). Contractors on public jobs were more likely to come from non-contiguous counties.[2] Furthermore, contractors on public projects were more likely to come from urban areas

Table 4-3: Location of Contractor on Public and Private Projects

Nature of Project	Location of Contractor: Same County	Contiguous County	Non-Contiguous County	Don't Know	Total
Private					
Number	82	43	49	2	176
Percent	46.6	24.4	27.8	1.1	100.0
Public (Davis-Bacon)					
Number	58	83	68	0	209
Percent	27.8	39.7	32.5	0.0	100.0
Total					
Number	140	126	117	2	385
Percent	36.4	32.7	30.4	0.5	100.0

Table 4-4: Regression Results: Determinants of Firm Size

Variable	Coefficient	Standard Error
Ln(Square feet)	.392**	(.039)
Davis-Bacon	.059	(.117)
Constant	-.277	(.718)
Adjusted R^2 = .112		
F = 12.588		
Dependent variable = Ln(Firm Size).		
N = 185		

** Significant at the 1% level.

than rural areas, either the sample county or another (usually nearby) rural county. In our sample, the use of urban contractors was significantly greater on public projects (46.4%) than on private projects (35.2%) ($X^2 = 4.68$, d.f. = 1, $p < .05$). If we use private project experience as a guide to what would happen in the absence of Davis-Bacon, the Act does seem to have the effect of making it more difficult for local contractors to successfully bid on public projects.[2]

It has also been argued that the Davis-Bacon Act discriminates against small firms, dilutes competition, and consequently increases costs in the construction industry. If such discrimination exists, we would expect firms doing projects subject to the Davis-Bacon Act to be larger than firms doing private projects. But while firm size (as measured by average 1977 employment) is somewhat larger for firms doing Davis-Bacon work than for those doing private work (57 and 50 employees respectively), the Act provides no independent explanation of firm size once project size is taken into account. The coefficient on a Davis-Bacon variable in a regression of square feet and Davis-Bacon on firm size is not significant at standard levels (see Table 4-4). Project size and not whether or not a project is subject to the Act is the key determinant of firm size.

Effect of the Davis-Bacon Act on Wages

As we noted in Chapter 1, the Davis-Bacon Act is generally thought to raise wages on federally-funded projects. In some, but not all cases, the prevailing wage is above the average wage for the area. There are a number of possible causes, as noted in Chapter 1. The importation of urban wage rates mentioned above is one factor; others include the use of the thirty percent rule and the DOL's reliance on union-provided data. To get information about the extent to which contractors were required to pay higher wages on Davis-Bacon projects, we asked each of the general contractors interviewed if the wage paid on the sample project was different from the wage the company normally paid. Contractors on 39 (18.1%) of the 215 projects responded that they had paid a different wage to at least some group of workers; 146 (67.9%) of the contractors paid the usual wage to all crafts; and the remaining 30 (14.0%) either did not answer the question or were construction management firms which did not hire labor directly. Those who reported a wage difference were asked the reason for the difference. Prevailing wage requirements (or Davis-Bacon specifically) were cited as the reason for the difference by 28 contractors (71.8% of those reporting a difference or 25% of the 113 on public projects). Other reasons included travel, different type of work, different type of worker hired; contractors on 3 of the projects did not give a reason for the difference. The mean increase above the normal hourly wage due to Davis-Bacon was $2.11 (34.1%) for carpenters and $2.15 (45.2%) more for laborers.[3] Of course, the effect on individual contractors could be greater or less than this amount—the increase ranged from $0.63 to $5.50 per hour for carpenters and from $0.50 to $4.04 per hour for laborers.

Some contractors think that disruption and loss in morale result from raising wages for one project only. Consequently, they may not bid on public construction projects to which the prevailing wage laws apply. Contractors who are already paying high wages do not have to worry about this and as a result are more likely to bid on such projects. If only the latter, high wage group competed for jobs, the wages paid on Davis-Bacon projects would be higher than the wages paid on private projects even though individual company wage rates were unaffected (i.e., each company paid its normal wage). To capture this wage effect too, we asked the contractors for the wage rates actually paid to each type of worker. Not all contractors responded—some did not have the information available, some may not have hired that particular type of labor, and some did not wish to answer the question. Table 4-5 gives the mean wage paid to each type of labor for both the public (Davis-Bacon) and private projects. The numbers in parentheses are the number of projects for which the wage rate was reported. Except for supervisors, construction workers were, on average, paid significantly higher wages on projects subject to the Davis-Bacon prevailing wage requirements than on private projects. The increase above the mean rate on private projects ranged from 12.9% to 23.2%. This is not as large as the average increase faced by those who reported paying more than their normal wage. This is to be expected since those contractors for whom the law made no difference are included. If there were no shift of work to the higher-wage contractors (that is, if only the 28 contractors were affected and everyone else paid what contractors on private projects paid), the wage effect would be much smaller. High wage contractors get more of the work on public projects but they also do some construction work for private

Table 4-5: Wage Rates by Craft, Public and Private Projects

Craft or Group	Hourly Wage Rate: Public (Davis-Bacon) Projects	Private Projects	Percent Increase	t value
Carpenters	$9.378 (65)	$7.875 (54)	19.1	2.794***
Masons	9.135 (29)	8.029 (21)	12.9	1.564*
Iron Workers	9.350 (23)	7.586 (16)	23.2	2.080**
Finishers	7.717 (19)	6.308 (10)	22.3	1.433*
Operating Engineers	9.751 (18)	8.206 (10)	18.8	1.387*
Laborer	6.551 (67)	5.428 (50)	20.7	2.447***
Supervisors	9.689 (35)	9.968 (34)	-2.8	-.454

* Significant at the .10 level
** Significant at the .05 level
*** Significant at the .01 level

Table 4-6: Union Status of Contractors, Public and Private Projects

Nature of Project	Union	Non-Union	No Response	Total
Public (Davis-Bacon)				
Number	42	68	3	113
Percent	37.2	60.2	2.6	100.0
Private				
Number	16	81	5	102
Percent	15.7	79.4	4.9	100.0
Total				
Number	58	149	8	215
Percent	27.0	69.3	3.7	100.0

Table 4-7: Mean Cost and Size for Public and Private Projects

Nature of Project	Mean Total Cost 1977 dollars	Mean Size Square Feet	Mean Cost per square foot 1977 dollars	N
All Projects	543,180.64	16,908.13	37.70	215
Public (Davis-Bacon)	708,074.96	19,350.37	41.12	113
Private	360,503.59	14,202.51	33.90	102
Ratio: Public to Private	1.964	1.362	1.213	—

companies as well. For example, union contractors, paying union wage scale, built 16 of the 102 private projects. However, as the numbers in table 4-6 show, union contractors were used significantly more often on public projects ($X^2 = 12.72$, d.f. = 2, $p < .05$).

The size, but not the frequency, of the wage increases is similar to that found by the GAO and Thieblot. Whereas only 25 percent of the contractors in this study said they paid wages different from what they normally paid, nearly one-half the respondents in the Thieblot survey said that Davis-Bacon wage rates were different from what they paid on other work.[4] The difference may be due to the fact that his survey included those for whom the wage difference was sufficient to discourage them from bidding on the project. In Thieblot's survey, the average reported increases were between 30 and 40 percent, depending on craft.[5] In the GAO report, the mean difference between the prevailing wage determined by the DOL and the GAO's recalculation was 36.8% (on 12 of 30 projects).[6] Both Thieblot and the GAO then multiply these increases by the percentage of contractors experiencing them to estimate the increase in wages on average. Their calculations yield estimates of 18% and 14.7% respectively. Our estimates (Table 4-5) are higher because our procedure takes into account the shifting of work to higher wage contractors and theirs do not. In addition, our values pertain to rural areas only, not a mixture of rural and urban values as theirs do. Gould and Bittlingmayer and Bourdon and Levitt use procedures similar to ours but their data are for urban areas so the differences are much smaller.

Effect of the Davis-Bacon Act on Costs

The total costs of a federal project might rise as a result of the higher wage rates established by the DOL. It is unlikely that the total costs would rise by the same percentage as wages did because labor costs are only a portion of the total costs of construction. If nothing other than the wage changed, the increase would be only about one-third the increase in wages (or about 6 or 7%) since approximately two-thirds of the cost of buildings is for materials and other inputs. However, as we noted earlier, there are a number of other factors besides wages which determine the total effect of Davis-Bacon on costs. To allow for these, we should consider differences in total costs directly.

The average cost of the 215 projects in 1977 dollars was $543,181 or $37.70 per square foot. The 113 projects covered by the Davis-Bacon Act cost an average of $708,075 while the 102 private projects cost an average of $360,504. Part of this difference is due to differences in the size of the buildings. As Table 4-7 shows, the public projects were, on average, larger than private projects. Yet differences in the cost per square foot ($41.12 for the public projects compared to $33.90 for the private ones) show that size is not the sole explanation.[7] We cannot, however attribute all this difference to the effect of the Davis-Bacon Act. Differences in design and materials used in the building will also lead to differences in the cost per square foot.[8] Tables 4-8 and 4-9 show the considerable differences in the cost per square foot among different types of buildings and among the various types of construction. Similar variation in cost per square foot can be seen among projects having different types of exterior walls and so on. Because the physical characteristics of the building also have an influence on costs, we cannot estimate the effect of the Davis-Bacon Act by merely looking at the differences in cost. In order to disentangle the sources of variation in cost we need instead to consider both influences simultaneously.

We therefore applied ordinary least squares to assess the effect of the Davis-Bacon Act on rural non-residential construc-

Table 4-8: Cost per Square Foot by Project Type

Project Type	Number	Cost per Square foot
Medical	11	$42.23
Office-Commercial	122	39.91
Amusement	8	37.60
Industrial	62	33.04
Storage	14	20.67
Other	7	64.12

Table 4-9: Cost per Square Foot by Project Characteristics

Type of Structural Frame	Number	Cost per Square Foot	Type of Exterior Wall	Number	Cost per Square Foot
Precast concrete	6	$48.97	Cast in place concrete	4	$47.10
Poured in place concrete	9	44.30	Block	92	41.99
Masonry	79	44.09	Brick	167	41.27
Other	5	42.83	Wood siding	34	37.56
Wood frame	40	39.55	All other	12	33.84
Wood post and beam	21	38.50	Precast concrete	9	32.44
Steel column and beam	91	35.29	Curtain wall	3	32.04
Metal wall bearing	20	22.31	Metal	62	25.06

tion cost. Several variants of the following basic model were estimated:

(1) $C = a + b_1T + b_2B + b_3R + b_4DB + b_5S + e$, where

C = Cost — Total cost or cost per square foot. Actual cost was deflated (inflated) to January 1977 using the *Engineering News Record*'s construction cost index for the month the project started.

T = Technical characteristics — Types of site preparation, foundation, frame, roofing, etc. See Appendix Table D-1 for a full list of the variables used.

B = Building type — Office-commercial, industrial, storage, medical, amusement, other.

R = Region — Northeast, Northcentral, South, West.

DB = Applicability of Davis-Bacon

S = Scale variable(s) — Square footage (for project scale) and average employment (scale of firm operations).

a = constant

e = error term.

T, B, R, and S are vectors of variables while DB is a single variable. Except for the scale variables, all variables are binary; they may assume only two values: 1 or 0. Thus DB is 1 if a particular project is subject to the Davis-Bacon Act and 0 if it is not. The 0 value of a variable, known as its reference category, serves as a basis for comparison.[9] If Davis-Bacon applies, (DB = 1), construction costs would be b_4 dollars higher or lower than if it did not apply (DB = 0). If all variables in equation (1) are 0, C equals the constant, a.

Table 4-10 (page 21) presents the basic regression results for the U. S. as a whole. The dependent variable is the natural logarithm of total cost. We used the log transformation because it is more plausible to assume that the Davis-Bacon Act or any technical or regional variable has a constant relative (percentage) impact on costs instead of a constant absolute dollar impact.[10] The full complement of technical (T), building type (B), and regional (R) variables, plus the Davis-Bacon (DB) and project scale (square footage) variables were used as independent variables. The model was estimated using a step-wise regression procedure where the explanatory variables having the highest F value entered the regression first. Only twenty explanatory variables are listed; additional variables added little to the explanatory power of the model.

Important features of the results are:

1. The R^2 is quite high and the F statistic is significant at the 1 percent level. Our model explains a significant portion (81.8%) of the variation in building costs.
2. The constant and all but four of the independent variables in the model are significant at standard levels. We can reject the hypothesis that the Davis-Bacon Act, or most any of the other independent variables listed, has no effect on costs with a high degree of confidence. The stability of the Davis-Bacon coefficient and the presence of relatively little correlation between Davis-Bacon and the other independent variables suggest that multicollinearity is not a serious problem affecting our results.[11]
3. As expected, the number of square feet in the building is the single most important determinant of cost. The first variable to enter in the step-wise regression, it and the constant by themselves explain 63% of the variation in construction cost. The coefficient of .737 indicates that a 10% increase in square footage increases construction cost by 7.4%. Thus it appears that there are some economies of scale by project size so that cost per square foot would fall as project size increases.
4. The value of the constant, 5.023, indicates the cost of a building having the reference category features: a privately-built office building with a slab foundation and concrete block exterior walls, located in the Midwest, etc. If this building were of the mean square footage, the predicted total cost would be $198,412.
5. We can also see the effect of any of the building type, technical, or regional variables in the model. Where these variables are significant, the coefficients are of the expected sign. It is no great revelation that storage buildings cost less than office buildings and block wall more than drywall. Nor does one have to be a civil engineer to appreciate that a building erected on piles is more costly than one built on a flat concrete slab.[12] The fact that the gist of our results reflects common construction knowledge suggests that we have estimated an appropriate model. The coefficients on these variables may be used to estimate the impact of a change in building characteristics on cost. For example, a project using metal walls rather than concrete block would cost 18% less, while a building with a built-up roof would cost 26% more than one with a metal roof.[13]
6. Finally, the coefficient on the Davis-Bacon variable provides an estimate of the effect of the Davis-Bacon Act on construction costs once building characteristics have been held constant. According to the model, the Davis-Bacon adds, on average, 26.1% to construction costs. In other words, the model predicts that a project subject to the Act would cost on average 26.1% more than the identical project not subject to the Act.

The sample we used to estimate the regression equation above includes proportionately more (fewer) observations for certain regions than what we hypothesized the population of construction projects contains, based on our original sample.

Table 4-10: Regression Results: Determinants of Non-Residential Construction Cost, Standard Model, U.S.

Reference Category	Variable	Coefficient[b]	Impact[c]
	Ln(square feet)[a]	.737**	.7%
		(.037)	
Exterior Walls:			
Concrete block	Metal	-.198*	-18.0%
		(.096)	
Concrete block	Cast-in-place concrete	.851**	134.2%
		(.269)	
Concrete block	Marble	-.890	---
		(.511)	
Building Type:			
Office	Storage	-.625**	-46.5%
		(.148)	
Interior Construction:			
Drywall	Block	.283**	32.7%
		(.081)	
Drywall	Brick	.271	---
		(.172)	
Foundation			
Slab on grade	Caissons	.249**	28.3%
		(.071)	
Slab on grade	Piles	.158*	17.2%
		(.076)	
Wall covering:			
No wall covering	Vinyl	.257**	29.3%
		(.084)	
Site Preparation:			
No special preparation	Unstable soil	.340**	40.5%
		(.111)	
No special preparation	Other	-.131	---
		(.090)	
Roofing:			
Sheet metal	Clay tile	.916*	149.9%
		(.357)	
Sheet metal	Built-up	.232**	26.1%
		(.086)	
Floors:			
Low-rise	High-rise	.247	---
		(.143)	
Structural Floor:			
Slab on grade	Cast-in-place concrete	.231*	26.0%
		(.092)	
Floor Finishing:			
Concrete	Ceramic tile	.184*	20.2%
		(.080)	
Region:			
North Central	West	.206*	22.9%
		(.096)	
	Northeast	.295*	34.3%
		(.126)	
Davis-Bacon Act:			
Not applicable	Applicable	.232**	26.1%
		(.073)	
	Constant	5.023**	
		(.313)	

N = 215
Adjusted R^2 = 81.8%
Overall F statistics = 49.1**
Dependent variable is Ln(Total Costs)

[a] Ln = natural log

[b] Standard errors are in parentheses beneath the coefficients.
** Significant at the 1% level
* Significant at the 5% level

[c] Percentage change in cost when the variable equals one or, in the case of square feet, when the variable increases by one percent; not calculated when the variable is not significant.

Our sample appears to under-represent the Northeast and over-represent the West. The problem of disproportionate response can be adjusted for by appropriately weighting observations. If indeed, rural non-residential construction projects are distributed in accordance with our initial sample, the weighted version will provide more accurate national estimates of the effect of the Davis-Bacon Act than does the unweighted version. A comparison of the weighted version of the model and the unweighted shows that the weighting procedure causes a slight increase in the R^2 (from .818 to .826) and, other things being equal, a substantial increase in the size of the Davis-Bacon coefficient (from .232 with a standard error of .073 to .308 with a standard error of .073). Adjusting our estimates for disproportionate response raises the impact of the Davis-Bacon Act from 26.1% to 36.1%. We also ran a regression weighting observations to correct for differential response by project type. For this regression the R^2 is .828 and the Davis-Bacon coefficient is .264 with a standard error of .071. This yields an estimated impact of 30.2%. Which of these is the best estimate of the Act's effects depends on whether the regional distribution of rural non-residential construction projects is more like that of our entire sample or like that of the useable returns. We do not have statistics on the actual distribution of rural non-residential projects to make this assessment or to provide an accurate set of weights.

We also examined the extent to which our results are influenced by our choice of functional form (our use of the log transformation). To do this, we estimated the basic model in other forms. The entire set of technical, building type, and regional variables, plus the Davis-Bacon variable appears in each model. The models differ in the form of the equation and in the specification of the size-cost relationship. The results are summarized in Table 4-11; a more detailed presentation is included in Appendix E.

Model 1 is the variant already presented in Table 4-10 and the version we think is superior. In variants 2 and 3, we do not use the log transformation; instead, the dependent variable is total cost (in 1977 dollars). Both variants 2 and 3 assume that all variables (except square footage) raise (or lower) total cost by a constant amount (in dollar terms). The difference between them is that variant 2 assumes a linear relationship between size (square footage) and cost, while variant 3, by including the squared term, allows for a non-linear relationship. The coefficients can be interpreted as estimating the average dollar amount by which costs are increased as a result of the law, other things being equal. The increase amounts to 29.9% (variant 2) or 28.2% (variant 3) of the mean total cost. Using either of these versions raises the estimated impact somewhat over the original version (variant 1).

In variants 4, 5, and 6, we use cost per square foot instead of total cost as the dependent variable. When the log transformation is used (variant 4) the Davis-Bacon variable is significant and has roughly the same impact as in the other variants, although the model's overall performance is not as good. When the linear form is used, the R^2s are low and the Davis-Bacon variable is not significant. However, we think it is unlikely that the use of a particular type of floor covering (or any of the other independent variables) has a constant absolute effect, adding the same dollar amount to cost in all cases. We therefore prefer on theoretical grounds the variants which assume a constant percentage impact, that is, those in which the dependent variable is in log form. The two log variants (1 and 4) provide estimates of the impact of Davis-Bacon of 26.1 and 29.1 percent respectively.

Since our estimates of the effect of the Davis-Bacon Act are decidedly larger than most of the estimates derived by multiplying the average percentage increase in wages by labor's share of total cost, we turned to the information on the various compo-

Table 4-11: Summary of Regression Results for Alternative Specifications

Variant	Variables[a]		Davis-Bacon		Overall	Adjusted
	Dependent	Independent	Coefficient[b]	Impact[c]	F	R^2
1	LnTC	T, B, R, DB, LnSF	.232** (.073)	26.1%	49.1	.818
2	TC	T, B, R, DB, SF	162,358* (79,200)	29.9%	42.0	.792
3	TC	T, B, R, DB, SF, SF^2	152,978* (73,240)	28.2%	44.8	.804
4	LnCS	T, B, R, DB	.255** (.087)	29.1%	8.8	.423
5	CS	T, B, R, DB, SF	5.51 (3.98)	—	3.7	.200
6	CS	T, B, R, DB, SF, SF^2	3.48 (3.91)	—	4.6	.252

N = 215 in all models

[a] Ln = natural log
TC = Total Cost (1977 dollars)
CS = Cost per square foot
T = Technical characteristics
B = Building types
R = Region
DB = Applicability of the Davis-Bacon Act
SF = Square feet

[b] Standard errors are given in parentheses beneath the coefficients;
* designates the variable is significant at the 5% level and
** designates significance at the 1% level.

[c] The impact is the percentage change in cost when DB = 1. It is evaluated at the mean for models in which cost is not expressed in logs. It was not calculated when the DB variable is not significant.

nents of total cost to see if we could explain the large Davis-Bacon effect we estimated.

Table 4-12 below gives the mean value for each component of cost for public and private projects for those buildings for which contractors had records. All costs are higher on Davis-Bacon (public) projects, but not by a constant percentage. The largest difference is for subcontracting costs; the smallest is for materials cost. Just as with total costs, the difference can not be attributed solely to the Act; the cost differences can in part be attributed to differences in size and technical characteristics of the buildings. We shall discuss the independent effect of the Davis-Bacon Act separately for each component.

While it is clear that wages are higher on the Davis-Bacon projects than on the non-Davis-Bacon projects (see Table 4-5), it does not necessarily follow that total labor costs will be proportionately higher. If firms substitute relatively less expensive capital equipment and off-site labor (in the form of prefabricated parts) for more expensive on-site labor, total labor costs may be only a little higher on Davis-Bacon projects.[14] Since we estimate the Act raises total cost by about 30% notwithstanding an average wage differential between public and private projects of only 20%, such substitution can hardly be common. In fact, our data provide no evidence of extensive substitution of non-labor inputs for labor:

1. There is no significant difference in the use of prefabricated components in public projects (1.05 components, on average) and private projects (1.09). Since the use of prefabricated components is labor-saving, public projects would be characterized by greater use of such components if substitution were extensive.
2. The coefficient of the Davis-Bacon variable in a regression of total labor costs on the standard independent variables is very high, namely .578, which implies an increase in labor costs associated with the Act of 78.2% (see Table 4-13). If substitution were extensive, the coefficient would be closer to 20%, the public-private wage differential.
3. If substitution were extensive on public projects, we would expect that, other things being equal, the use of capital and therefore equipment cost would be greater on public than private projects. Although equipment costs are high on public relative to private projects (see Table 4-12), our sample of such costs is too small to make reliable estimates.

What accounts for this absence of substitution? In the first place, the contractor may have little opportunity to substitute. Projects are often specified in detail by the owner or designer before the contractor comes on the scene. The contractor may have little or no choice in the matter. Even where the possibility of substitution exists, the motivation may be lacking. If a contractor must *temporarily* pay higher wages, the set-up costs (retraining, locating new suppliers, the inevitable costs and disorganization of change, etc.) may be high enough to offset the savings on wages and make it unlikely he would undertake the change. It seems likely contractors make fundamental decisions about the mix of capital and labor inputs in light of long-run or expected costs. Major changes occur only over a period of years in response to changes perceived to be permanent.

Absence of substitution cannot explain why wage costs rise on public projects much more than the public-private wage differential would suggest. One possible explanation is the DOL's assignment of work to particular crafts. If the DOL does not recognize the category, "general building mechanics" or something similar, contractors may have to confine their employees to working in one trade and pay the accordingly higher wage rates. The effect of the Act on job assignments would affect total labor costs but not wages and would therefore explain our results. Another possibility is that the government is more exacting in its quality standards, which would also mean more labor hours and higher total labor costs.[15] A third possibility is that federal affirmative action programs have a greater impact on public projects than on private ones.

Effect of Davis-Bacon on subcontracting costs

We also examined the effect of the Davis-Bacon Act on the costs of subcontracted work since, according to Table 4-12, the relative costs for public projects is the greatest for this category. Subcontractors are also bound by the provisions of the Davis-Bacon Act and face many of the same problems as the general contractor with respect to wage rates, work assignment, reporting requirements, and other administrative costs. Since the charge for subcontracted work includes payment for labor, materials, and equipment provided by the subcontractor as well as an amount to cover his overhead and profit,[16] we would expect the cost of subcontracted work to increase by about the same percentage as the cost of the entire project.[17]

The impact of the Davis-Bacon Act on subcontracting costs is estimated using the basic regression with the natural log of total subcontracting costs as the dependent variable. As the results in Table 4-13 show, the Act does have a significant independent effect on subcontracting costs, although controlling for project characteristics eliminated much of the difference. The estimated coefficient on the DB variable for subcontracting costs (.358 or 43.0%) is larger than that for total costs. One possible explanation is differences in the mix of inputs. Another possible explanation is an interaction between size and the extent of subcontracting that we have not adequately specified. Construction of the larger, and generally more complex, public projects may be organized differently. A third possibility is that federal government requirements that a certain percent of the subcontracted work go to minority-owned businesses are responsible for the cost increase on public projects. Many of the public projects in our sample were funded by

Table 4-12: Mean Values and Ratios: Cost for Public and Private Buildings by Cost Component

Cost Component	Public Projects Number	Public Projects Mean (1977 dollars)	Private Projects Number	Private Projects Mean (1977 dollars)	Ratio: Public to Private
Labor	93	92,371.96	79	47,762.08	1.934
Subcontracting	103	557,975.80	88	2[illegible]65.25	2.623
Materials	83	136,089.91	81	88,304.56	1.541
Equipment	44	16,716.54	43	6,490.11	2.576
Other Direct Costs	44	9,570.69	43	3,938.53	2.430
Overhead and Profit	96	49,179.91	91	27,321.25	1.800
Total Costs	113	708,074.96	102	360,503.59	1.964

Table 4-13: Regression Results: Determinants of Labor and Subcontracting Costs

Variable	Labor Costs[a] (LnTLC)	Subcontracting Costs[a] (LnTS)
Constant	2.680**	2.850**
	(.557)	(.531)
Natural log: square feet	.737**	.859**
	(.064)	(.062)
Davis-Bacon	.578**	.358**
	(.126)	(.123)
Other variables significant at the 5% level or better	Wall footings (+)	Wall footings (+)
	Vinyl asbestos tile (+)	Sheet vinyl (+)
	Cast-in-place interior walls (+)	Other floor finishing (+)
	High rise (+)	Storage (–)
	Ceramic tile (+)	Other roofing (+)
	Metal wall bearing (–)	West (+)
	Piles (+)	Brick exterior (+)
	Foundation walls (+)	Piles (+)
Adjusted R^2	.682	.735
F	19.344	27.398
N	172	191
Estimated Impact of DB	78.2%	43.0%

[a] Coefficients with standard errors in parentheses.
** Significant at the 1% level
(+) Has a positive effect on the dependent variable
(–) Has a negative effect on the dependent variable
LnTLC is the natural log of total labor costs
LnTS is the natural log of total subcontracting costs.

the Economic Development Administration under its Local Public Works program. Contractors on a number of these projects complained about the EDA's rather strictly enforced requirement that 10% of the work be subcontracted to minority-owned firms. Some of these contractors said this requirement caused more problems for them than the prevailing wage requirements. In part, the requirement gives the relatively small number of minority-owned construction companies more market power and they may raise their bids accordingly. One of the contractors we interviewed said that to meet the requirement he had to accept a bid that was $9,000 higher than comparable bids for the same work on a $200,000 project.

Other general contractors described some of the problems they had encountered with minority subcontractors which led to increased costs, not only on the work done by the subcontractor but also in increased costs for the general contractor. The construction industry is relatively easy to enter and it is common to find new companies which are undercapitalized and inexperienced at work on large projects. With inadequate equipment, higher financing costs, less experienced labor, and less experienced management, minority contractors sometimes needed longer to do the job and charged more.[18] The general contractor might not have used this company without government pressure to do so. If, as our respondents suggest, this is a major problem, then some of the cost increase we are attributing to the Davis-Bacon Act is really due to other federal requirements.

The difference in materials cost is smaller than the differences in the other cost components. The cost of materials on public projects was only 54% greater than the cost of materials on private projects. Certainly size and type of building are important in explaining these differences. Using our basic model to examine variations in materials cost, we find that, as expected, the variables indicating type of foundation, type of structural frame, type of roofing, and type of interior and exterior walls are significant. The Davis-Bacon variable is not significant. Thus, materials costs are higher on public projects because of the type and size of the building built with federal funds, not because of the Davis-Bacon Act. This conforms to our expectations and illustrates again the sensible nature of the results derived from our model.

Other direct cost includes financing charges, project utilities costs, the cost of performance bonds, and the cost of progress reports and record keeping for the project. The component we were most interested in was the cost of record keeping. Davis-Bacon is alleged to add significantly to these costs and a number of our respondents cited such costs as an important effect of Davis-Bacon and/or a major problem for them. Unfortunately, only a relatively few firms maintained separate records for this item. Those who had, reported costs that equalled an average of 1.04% of total cost on public projects and 1.70% of project cost on private projects. This figure is higher than previous estimates. The surprising result that such costs were higher on private projects should not be given too much weight as the number of observations was only 28 (18 public and 10 private).

The final category is overhead and profit. To minimize the effect of different accounting practices, we combined these two categories. Overhead and profit are also larger where the Davis-Bacon Act applies. Differences may again reflect difference in the projects. Indeed, if we use the more common measure, profits as a percent of sales (the amount received for building the project), there is no significant difference between the rate on public projects (8.7%) and the rate on private projects (8.5%). There appears to be enough competition for these jobs to keep firms from raising prices substantially, on the assumption government will always pay. Nor does there seem to be significant differences in management between firms doing public work and those doing private jobs which would give one firm a significant cost advantage, allowing it to be the low bidder yet still earn higher profits. Management is difficult to measure but we can examine some of the things management can affect. One possibility is that management can lower costs and increase profits through better scheduling. Early or on time completion can often earn a bonus for a contractor. There is no real evidence that this has taken place. The larger public projects take longer to build (11.9 months versus 8.7 months for private projects). Moreover, the square feet of space completed per month is somewhat less for the public projects (1,774 versus 1,834 for private ones). There does not seem to be any significant change by management to lower costs by improved scheduling, although it is possible that some changes were made which kept costs from rising even more than they would have otherwise.

Firm size affects cost

The size of the firm itself influences construction cost. The coefficients of firm size variables in the standard regression, while small, are statistically significant at the 1 percent level (see Table 4-14). Other things equal, the bigger the firm, the higher the cost. While there are evidently economies of scale by project size in construction, there are diseconomies of scale by firm size. Including the size variable results in a slightly smaller estimated effect for the Davis-Bacon variable and a slightly better over-all fit, compared to the standard variant estimated using the same observations. Thus, it appears that the coefficient on the Davis-Bacon variable in the standard variant reflects in part the higher costs associated with the somewhat larger firms doing construction work.

Sample size permitting, we also analyzed construction cost on a disaggregated basis, by region and building type. The

Table 4-14: Summary of Regression Results, Determinants of Construction Cost (LnTC), Standard Variant, With and Without Firm Size Variables

Variant	Coefficients[a] Employment (E)[b] E	Ln(E)	Ln (Square Feet)	DB	F Statistic	Adjusted R^2
Standard			.777**	.333**	48.5**	.838
			(.039)	(.077)		
Standard With Firm Size Variable:						
E	.0014**		.744**	.321**	49.2**	.840
	(.00050)		(.041)	(.076)		
Ln (E)		.135**	.703**	.322**	51.8**	.863
N = 185		(.034)	(.041)	(.075)		

[a] Standard errors in parentheses beneath the coefficients; ** designates significant at the 1% level. Full results for the first and third regressions are given in Table 4-10 and Appendix Table E-2, respectively.
[b] Average 1977 employment.

results are mixed. The Davis-Bacon coefficient is large and significant at standard levels for office-commercial buildings and industrial buildings, and for the North Central region, but not significant for the West and the South.[19] These results (see Table 4-15) are not as good as those for the U.S. as a whole (compare with Table 4-10); the F statistics and R^2s are generally lower and there is greater instability in the DB coefficients. This follows in part from the smaller sample size.

The regional results are unexpected. It is not at all obvious why the Davis-Bacon Act would raise costs substantially in the North Central region but not significantly in the South or West. While unionization is relatively common in the West, it is relatively uncommon in the South. A possible explanation is

Table 4-15: Regression Results, Determinants of Non-Residential Construction Costs (LnTC) by Region and Building Type

Region or Building Type and Regression Variant	Davis-Bacon Coefficient[a]	Overall F Statistic	Adjusted R^2	N
North Central				
Standard Regression (Variant 1)	.470** (.140)	18.6	.832	72
Standard, with Firm Size Included	.589** (.145)	20.2	.861	63
Industrial Building				
Standard Regression (Variant 1)	.331*	13.5	.804	62
Standard, with Firm Size Included	.555** (.140)	20.8	.890	50
Office Building				
Standard, with Firm Size Included	.203** (.656)	78.8	.936	107

[a] Standard errors in parentheses.
* Significant at the 5% level
** Significant at the 1% level

Table 4-16: Wage Rates by Region, Public and Private Projects

Region	Type	Carpenters Number	Mean Wage	Ratio	Laborers Number	Mean Wage	Ratio
North Central	Public	17	$9.99	1.268	22	$6.72	1.079
	Private	19	7.88		15	6.32	
South	Public	27	7.16	1.128	27	4.84	1.260
	Private	20	6.35		23	3.84	
West	Public	13	12.23	1.139	11	9.35	1.160
	Private	11	10.73		7	8.06	

that the Act in fact has little effect on cost in rapidly growing regions such as the West and South. When construction activity is high, labor markets are tight and in these circumstances union wages may even lag non-union wages. It is quite likely that prevailing wages would also lag. Bourdon and Levitt summarize the work of William Speed in which he estimated the cost of constructing a large industrial project in the Southeastern U.S.[20] His initial estimates are that using union labor raises costs by 52.3%. Reestimating the cost of open-shop construction under the assumption that strong labor market pressures (such as those due to rapid growth) force open-shop contractors to pay wages close to union rates, the difference is about 20%. While this is only a hypothetical case and concerns the effect of unionization, not the Davis-Bacon Act, it is illustrative of the possible impact of population growth. This hypothesis, if correct, would also explain why the DB coefficient is so high in the slower-growing North Central region. Some support for this explanation is found in the statistics on wage rates by region presented in Table 4-16. For carpenters, the wage differentials are the largest in the North Central region and smallest in the South. Davis-Bacon will not have as large an effect on costs if its effect on wages is less. However, the statistics on wages paid laborers does not support the explanation since the differential is greatest in the South. Respecification of the standard model to include a growth rate variable might shed some additional light on the regional situation.

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[1] For a comparison of this distribution to that of the original sample, see Appendix C.

[2] Other possible causes for the results include the size or nature of the project or more widespread publication of the bid notice.

[3] For carpenters, the mean "normal wage" paid was $6.19, while the mean wage paid on the sample projects was $8.30. For laborers, the mean normal wage was $4.76 while the mean project wage was $6.91. Not all 28 provided wage information.

[4] Thieblot, *Davis-Bacon*, *op. cit.*, p. 158.

[5] *Ibid.*, p. 157.

[6] General Accounting Office, *Davis-Bacon*, *op. cit.*, p. 77.

[7] The t statistic for the difference between the two means is 1.7845 (213 degrees of freedom), which is significant at the .05 level. Using a similar test of means reveals no significant difference in the size but a significant difference (at the .01 level) in total cost.

[8] Cost per square foot is used here to highlight the differences without the differences in the size of the building confounding the comparison.

[9] When a set of variables is used to describe a particular characteristic—region or type of structural frame, for example—one variable must be eliminated in order to estimate the regression equation. Otherwise, a linear relationship among the variables in a set will cause the estimation procedure to fail. In the case of the regional variables, we included only Northeast, South, and West in our list of variables. If the project is in the Midwest (Northcentral), the reference category, all three included variables will be zero.

[10] When cost is expressed in logs, the estimated regressions coefficients (the b's) measure the percentage change in total costs for small changes in the independent variables. However, for discrete changes (e.g., from 0 to 1), a simple calculation provides these "impacts" from the coefficient.

[11] In the step-wise regression, the DB variable entered seventh; its coefficient and significance level ranges from .232 to .268 and .000 to .002 respectively. The simple correlation coefficients between DB and other independent variables in the model are significant at the 5% level or better in two cases: the log of square feet (.14) and block interior construction (.29).

[12] The results also show that technical characteristics are more strongly associated with variation in construction cost than the rather crude building type categories. The one exception is storage buildings.

[13] Due to the nature of construction technology, there may be interdependence (multicollinearity) between various "independent" variables. For instance, it is unlikely that clay tile roofing *by itself* raises construction costs by 150%. Buildings with clay tile roofing probably use certain kinds of relatively expensive exterior walls, foundations, etc. As a result, the clay tile variable is not really independent of the other technical characteristics, although such independence is an underlying assumption of regression. Fortunately, such technical interdependencies in no way affect the reliability or the size of the Davis-Bacon coefficient.

[14] Of course, other effects of the Act may swamp these effects on labor costs or on total costs. It should also be noted that labor cost here refers to the general contractor's labor costs only; the subcontractor's labor costs are included in subcontracting costs.

[15] This idea was suggested to us by some of the contractors we interviewed. One complained of federal requirement of no-lead paint. The contractor said this paint does not cover the wall well so that more painting was required. Another complained of the "fine print readers" who required that everything be built exactly to specifications, some of which could not possibly be done. The buildings were, in his words, "overdesigned" for the "worst case."

[16] While it would have been instructive to interview all the subcontractors in order to break down their costs, we did not have the resources to interview several more firms for each project.

[17] One might expect a smaller effect if the wages of the trades most often used by subcontractors increased by less than 20%, due perhaps to a different degree of unionization, or if the more highly specialized nature of the work meant less of a change in how workers were assigned and paid.

[18] In one case, the minority subcontractor needed a lot of help from the general contractor in working up a bid and in writing up a contract. The general contractor had to buy the materials for the sub. When the subcontractor showed up to do the work, he had no plans, no tools, no equipment, and no workers lined up on this out-of-county project. The general contractor finally had to do much of the work himself. In another case, the minority subcontractor was experienced in the general line of work but not the more sophisticated aspects needed on the public project. The result was delay and exasperation when he couldn't do the job. For a lengthy discussion of the problems of minority construction companies, see Robert Glover, *Minority Enterprise in Construction*, (New York: Praeger Press, 1977).

[19] There were too few observations for the Northeast to estimate the model for that region.

[20] William S. Speed, "Construction Labor Cost Comparison of Open and Closed Shop Construction Projects," *American Association of Cost Engineers Transactions*, 1978, cited in Bourdon and Levitt, *op. cit.*, pp. 87-88.

CHAPTER 5. SUMMARY AND CONCLUSIONS

Does the Davis-Bacon Act raise construction costs? Almost all empirical studies have dwelt on the wage effect, ignoring the more fundamental and difficult questions of the law's overall effect on costs. While it is fairly clear that the law results in higher wages, it does not follow that the law therefore raises overall costs. Higher productivity of workers engaged on Davis-Bacon projects may more than offset the associated higher wage and administrative costs. Only an empirical study of total costs can get at these issues.

To get data to estimate the effect of Davis-Bacon on costs, we interviewed contractors who built selected non-residential buildings. The buildings were chosen from a list we compiled—based on permits issued and federal funding granted during 1977 or 1978—of construction projects located in a randomly-selected sample of 100 rural counties. From this list we selected a sample of 537 similar federally-funded and private projects. After eliminating those which additional information showed were not appropriate, we located contractors on 385 of these projects. We then interviewed contractors to obtain information about costs and project characteristics. Useable information was returned for 215 projects, of which 113 were projects to which the Davis-Bacon Act applied, and 102 were privately-funded and not subject to any prevailing wage requirements.

Our data show some support for the argument that, contrary to original intentions, Davis-Bacon is not preserving jobs for local contractors. The majority of contractors on both private and public projects were not from the county in which the project was located. However, contractors on public projects were significatly more likely to come from outside the county. Contractors on Davis-Bacon projects also were significantly more likely than those on private projects to come from urban areas.

A number of studies have provided illustrations of the effect of Davis-Bacon on wage rates. In our sample, contractors on 28 projects (24.8% of the public projects) said they had to raise wages above the normal rate due to Davis-Bacon. The average increase due to Davis-Bacon was 34.1% for carpenters and 45.2% for laborers. In addition, other low-wage contractors may have been discouraged from bidding on the project. The effect was that wages were significantly higher on the Davis-Bacon projects. Depending on the trade, wage rates ranged from 12.9% to 23.2% higher on the public projects. Wage rates paid supervisors were not significantly different.

Although the main effect of the Davis-Bacon Act seems to be to raise costs by raising wages, it is alleged to affect costs in other ways as well. There is certainly a difference in the costs of the public and private projects in our sample. The 113 federally-funded projects cost an average of $708,075 while the 102 private projects cost an average of $360,504. The public projects also were larger: 19,350 square feet on average, compared to an average of 14,203 for the private projects. Not all the cost difference should be attributed to the effect of the Davis-Bacon Act. Differences in the physical characteristics of the buildings and their regional location may account for some or all of the difference. To examine the effect of the Davis-Bacon Act while holding other things constant, we used an ordinary least squares regression of cost on scale, building characteristics, regional location, and Davis-Bacon variables. Changing the particular form of the model changed our results. However, in nearly every case the Davis-Bacon variable was significant at the 5% level or better. Based on our regression results, we estimate that nationally the Davis-Bacon Act increases construction costs in rural areas by between 26.1% and 37.7%. Regional estimates were less successful. The Davis-Bacon variable was not significant in some regional regressions, such as the South, while it was highly significant in others, such as the North-Central. A possible explanation is that the Act has little effect on cost in rapidly growing regions, where labor markets are likely to be tight.

These cost differences seem to stem not only from an increase in the wage rates that must be paid to workers in a given trade but also from the assignment of work to a particular trade for purposes of applying the posted prevailing wage rate. If more work were classified as done by "general building mechanic" and paid at the prevailing wage for that category of worker, the cost of public projects would be likely to more closely approximate that of similar private projects built by the mostly non-union contractors operating in rural areas.

Some caution should be used in interpreting or applying our results. First, our estimates are only for the impact of Davis-Bacon on the cost of non-residential buildings in rural areas. One cannot conclude that the effect for all construction is identical. The impact of Davis-Bacon on the cost of projects in urban areas or of other types could conceivably be quite different. The likelihood of such differences is strongly suggested by the different size effect we observed when separate estimates were made for the different building types and regions. A second caveat is that while our model discriminates among projects via a host of technical characteristics, it does not include every possible component or alternative method of construction. Omitted characteristics may have an effect and may be correlated with the applicability of the Davis-Bacon Act, possibly affecting our estimates. In addition, based on our analysis of the different cost components, we think at least a part of the cost effect our model attributes to the Davis-Bacon Act is in reality due to other government programs, such as affirmative action, or different standards for quality and safety. These effects can not be disentangled readily from that of Davis-Bacon. Whenever one applies, so do the others. Furthermore, if the Davis-Bacon Act were repealed, it would not mean a 26.1% decrease in costs unless state prevailing wage laws (which would still apply to many, but not all, projects) also were repealed.

That the Davis-Bacon Act increases the cost of public non-residential buildings in rural areas is fairly certain from our estimates. While the exact size of the impact is still uncertain, our results show that it is likely to be between 26% and 38%. This is larger than earlier empirical studies based on wage data for urban or national samples have suggested, and is likely to include the impact of other government programs as well.

APPENDIX A: Interview Schedule

SRC CONSTRUCTION COST SURVEY AUG 1980

Name of Construction Company: _____

Address: _____

1. Type of building (CIRCLE ONE):
   1 amusement or recreational building, school gyms
   2 storage, warehouses, barns
   3 industrial building, school shops, repair garages
   4 office, bank, or professional building, classrooms
   5 public works or utility building
   6 hospital or other institutional building
   7 store or other mercantile building, restaurants
   8 other, please specify: _____

2. For whom was the project built? (Name of company or agency)

   _____

3. Project duration,
   Date of beginning: ___/___/___ Day / Month / Year
   Date of completion: ___/___/___ Day / Month / Year

TECHNICAL INFORMATION

4. Approximate square footage of building: (within 50 sq. ft.)
   _____ Sq. Ft.

5. Number of floors in building, including basement floors:
   _____ Floors

6. Did you have any unusual site preparation?
   - ☐ unstable or low-strength soil requiring special footings
   - ☐ bedrock requiring special excavation
   - ☐ unusually heavy soil excavation and removal
   - ☐ other, specify: _____
   - ☐ no unusual site preparation

7. Type of foundation used:
   a. Did you use any special foundation elements, such as caissons or piles?
      - ☐ caissons
      - ☐ piles (specify type: wood/steel/concrete)

   b. Normal foundation type used:
      - ☐ column footings
      - ☐ wall footings
      - ☐ foundation walls
      - ☐ slab on grade

8. Did you use any of the following prefabricated building elements? (CHECK ANY USED)
   - ☐ precast concrete columns, beams or joists
   - ☐ prefabricated composite panels (insulation sandwiched between panels of metal, plywood, or cement-asbestos board and finished on exterior)
   - ☐ precast concrete panels
   - ☐ precast concrete planks
   - ☐ prefabricated metal or wood trusses
   - ☐ prefabricated stairs
   - ☐ prefabricated service modules

9. Structural frame (that is, the load bearing framework of the building): (CHECK TYPE)
   - ☐ heavy or laminated post and beam structural frame (SKIP TO Q. 10)
   - ☐ ordinary wood frame (SKIP TO Q. 10)
   - ☐ wall-bearing masonry structure (SKIP TO Q. 10)
   - ☐ structural frame of poured-in-place reinforced concrete (SKIP TO Q. 10)
   - ☐ steel column and beam structure (GO ON TO Q. 9a)
   - ☐ other (specify) _____ (SKIP TO Q. 10)

9a. If structural steel frame, specify fireproofing method:
   I. columns (CHECK TYPES USED)
      - ☐ encasement or enclosure (specify concrete, brick, etc.) _____
      - ☐ spray on protection
   II. beams (CHECK TYPES USED)
      - ☐ concrete encasement
      - ☐ sprayed on protection

External enclosure

10. Roofing (CHECK KINDS USED)
    - ☐ built-up roofing
    - ☐ sheet metal
    - ☐ roof shingles, type: _____
    - ☐ clay tile
    - ☐ other (specify) _____

11. Exterior walls (CHECK KINDS USED)
    - ☐ concrete block
    - ☐ brick
    - ☐ panelbrick
    - ☐ marble
    - ☐ granite
    - ☐ limestone
    - ☐ precast concrete
    - ☐ concrete walls cast in place
    - ☐ metal wall systems
    - ☐ curtain wall
    - ☐ siding over metal or wood studs
    - ☐ other (specify) _____

Interior Construction

12. Partitions (CHECK TYPES USED)
    - ☐ block
    - ☐ brick
    - ☐ concrete cast in place
    - ☐ drywall
    - ☐ plaster
    - ☐ movable
    - ☐ folding or sliding
    - ☐ other (specify) _____

13. Structural floors
    - ☐ pine or plywood over wood or steel joists
    - ☐ precast concrete planks or channel slabs
    - ☐ cast in place reinforced concrete
    - ☐ plain metal decking
    - ☐ slab on grade
    - ☐ composite floors: steel embedded in concrete
    - ☐ other (specify) _____

14. Floor finishing
    - ☐ carpeting
    - ☐ wood
    - ☐ sheet vinyl or sheet linoleum
    - ☐ ceramic tile
    - ☐ other floor tile
    - ☐ terrazzo
    - ☐ other (specify) _____

15. Wall covering (CHECK KINDS USED)
    - ☐ paint
    - ☐ vinyl wall covering
    - ☐ wall paper
    - ☐ wood paneling or sheeting
    - ☐ other (specify) _____

16. Was a sprinkler system installed in the building?
☐ Yes
☐ No

17. Was the building air conditioned?
☐ Yes
☐ No

ACCOUNTING INFORMATION

18. Company's job identification number _____

19. Which systems, if any, were subcontracted? Give the name of each subcontractor, the city in which it is located and the total amount paid to each subcontractor:

System	Check if sub-contracted	Total paid to sub-contractor	Name of Subcontractor	City
plumbing	☐	$_____	_____	_____
electrical	☐	$_____	_____	_____
roofing	☐	$_____	_____	_____
floorcovering	☐	$_____	_____	_____
iron work	☐	$_____	_____	_____
masonry	☐	$_____	_____	_____
painting	☐	$_____	_____	_____
excavation	☐	$_____	_____	_____
paving	☐	$_____	_____	_____
heat, ventilation, AC	☐	$_____	_____	_____
glass, glazing	☐	$_____	_____	_____
sewers	☐	$_____	_____	_____
others: (list)				
_____	_____	$_____	_____	_____
_____	_____	$_____	_____	_____
_____	_____	$_____	_____	_____
_____	_____	$_____	_____	_____
_____	_____	$_____	_____	_____
_____	_____	$_____	_____	_____
_____	_____	$_____	_____	_____
_____	_____	$_____	_____	_____

20. Total subcontracting costs:
$_____

21. For each craft listed below (excluding subcontracted labor), please give the *wage* paid to the largest number of workers in that craft. Also give for each the total number of hours of labor paid for at straight time and the total hours of overtime. (FILL OUT 21a IF INFORMATION IS UNKNOWN FOR SOME CRAFTS.)

Craft	Wage/hr	Total hours straight time	Total hours overtime
carpenters	$_____	_____	_____
masons	$_____	_____	_____
iron workers	$_____	_____	_____
finishers (painters, plasterers)	$_____	_____	_____
operating engineers	$_____	_____	_____
laborers	$_____	_____	_____
supervisors	$_____	_____	_____
plumbers	$_____	_____	_____
electricians	$_____	_____	_____

21a. If this information (21) is not available, please give the *total labor costs* by craft (excluding subcontracted work).

carpenters ..... $_____
masons ..... $_____
iron workers ..... $_____
finishers ..... $_____
operating engineers ..... $_____
laborers ..... $_____
supervisors ..... $_____
plumbers ..... $_____
electricians ..... $_____

22. For those crafts on which you reported in Question 21, were *any* of the wage rates different from those normally paid by the company?
☐ Yes (GO ON TO Q. 22a)
☐ No (SKIP TO Q. 23)

22a. Please list each craft for whom the wages were different from the normal wage rate, give the normal wage rate for that craft, and give the reason for the difference:

Craft	Normal wage rate/hour	Reason for difference
_____	$_____	_____
_____	$_____	_____
_____	$_____	_____
_____	$_____	_____
_____	$_____	_____
_____	$_____	_____
_____	$_____	_____
_____	$_____	_____
_____	$_____	_____

23. Total company labor costs:
$_____

23a. Does this include fringe benefits and social insurance programs?
☐ Yes; if yes, how much were these programs? _____
☐ No; if no, where are they included? _____

24. Total company material cost for project: ..... $_____
a. Cost of materials purchased for the project: ... $_____
b. Cost of materials taken from inventory: ..... $_____
c. Method of accounting for inventory cost (CIRCLE ONE): ..... 1 LIFO
2 FIFO

25. Did you expense any *equipment* costs to the project directly, or were equipment costs included in overhead?
☐ expensed to project
☐ included in overhead
a. Cost of own equipment expensed to project: ... $_____
b. Cost of equipment leased or rented: ..... $_____
c. Was this equipment leased or rented from a subsidiary of this company? ..... 1 Yes
2 No
3 Partly

25A. Total company equipment cost: ..... $_____

26. Other direct costs not elsewhere listed (job overhead):

a. Financing costs: ..... $_____

b. Cost of progress reports and record keeping:.. $_____

c. Project supervision costs (if not included in labor costs): ..... $_____

d. Cost of social insurance programs and company fringe benefits for project labor—Social Security, unemployment, worker's compensation, health insurance, etc. (if not included in labor costs or general overhead):.. $_____

e. Any other (specify) _____:.. $_____

26A. Total other direct costs: ..... $_____

27. Applied general overhead (nontraceable overhead, company overhead)

$_____

How calculated: _____

28. Total cost to you of the project:

$_____

(Should equal sum of 20, 23, 24, 25A, 26A, and 27)

29. On what basis were you paid for the project?

1 bid price

2 cost plus

3 other, please explain: _____

30. Revenues for the project:

$_____

31. Was this project subject to federal Davis-Bacon requirements?

1 Yes

2 No

31a. Was this project subject to state prevailing wage (little Davis-Bacon) requirements?

1 Yes

2 No

That completed the questions on the specific project. Now, I have a few questions on the company itself. I'd like to remind you that all of your answers are confidential and any figures published will be national or regional averages. The following questions are mainly measures of company size.

32. First, type of ownership: Is this company a . . .

☐ proprietorship—owned solely by one person

☐ partnership—owned by a few partners

☐ corporation—company has been incorporated

	1977	1978
33. Number of employees	_____	_____
34. Sales or revenues (annual volume)	$_____	$_____
35. Net income, or after-tax profits	$_____	$_____
36. Assets	$_____	$_____
37. Owner's or stockholders' equity	$_____	$_____

38. Is this company unionized?

☐ Yes

☐ No

39. Is this company operated "double-breasted"?

☐ Yes

☐ No

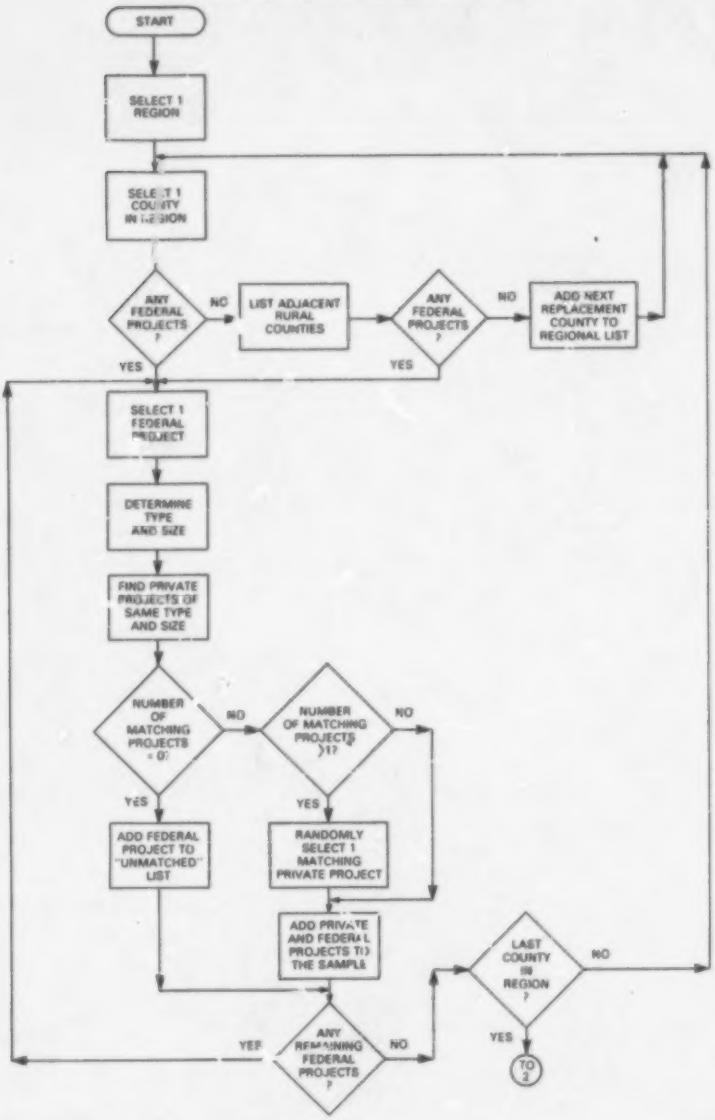
40. Names and phone numbers of persons interviewed:

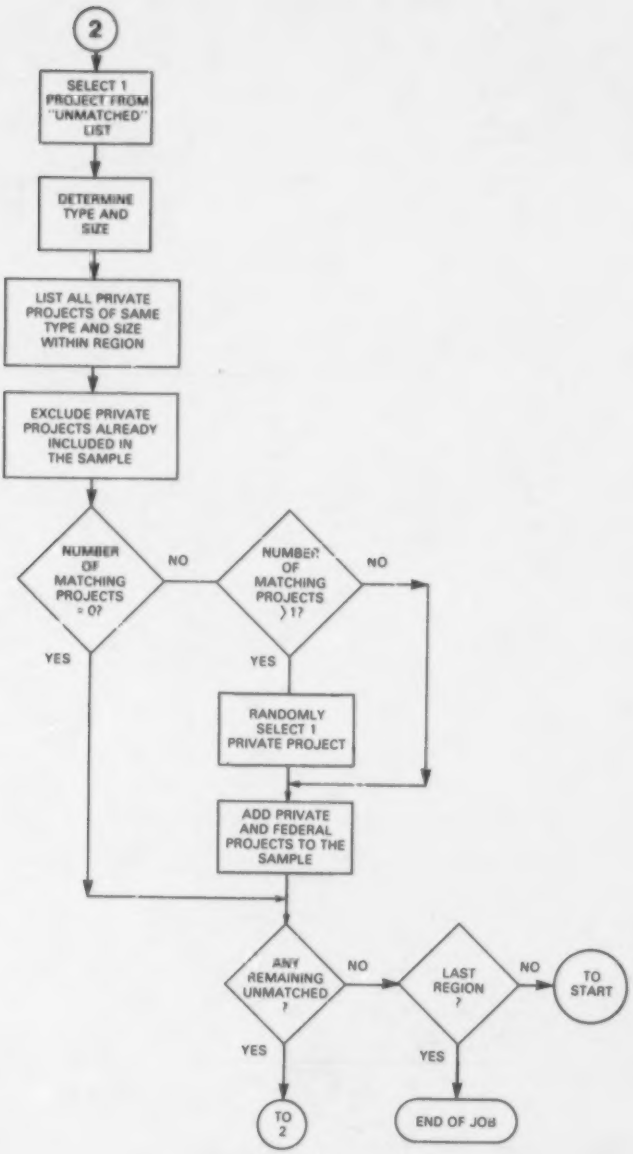
NAME, TITLE		PHONE
_____	_____	_____
_____		_____
_____		_____

Interviewer's signature: _____

Date: _____

APPENDIX B. Sample Selection




2
SELECT 1 PROJECT FROM "UNMATCHED" LIST
DETERMINE TYPE AND SIZE
LIST ALL PRIVATE PROJECTS OF SAME TYPE AND SIZE WITHIN REGION
EXCLUDE PRIVATE PROJECTS ALREADY INCLUDED IN THE SAMPLE
NUMBER OF MATCHING PROJECTS = 0?
NO
YES
NUMBER OF MATCHING PROJECTS > 1?
NO
YES
RANDOMLY SELECT 1 PRIVATE PROJECT
ADD PRIVATE AND FEDERAL PROJECTS TO THE SAMPLE
ANY REMAINING UNMATCHED ?
NO
YES
LAST REGION ?
NO
YES
TO START
TO 2
END OF JOB

APPENDIX C: Evaluation of Response Rates

A 56% response rate (215/385) suggests the possibility of bias when sample values are employed for population estimates in which the data are self-weighted. A comparison of response rates shows significantly different rates among regions of the country and among project types but not between public and private projects. These comparisons are shown in Tables C-1, C-2 and C-3.

Table C-1. Regional comparisons of completions

	West	North-central	South	Northeast	Total
	%	%	%	%	%
Completed	72	56	56	38	56
Not completed	28	44	44	62	44
Total	100	100	100	100	100
(N)	(54)	(122)	(159)	(50)	(385)

A chi-square value of 12.33 was obtained, significant at the .01 level with three degrees of freedom. Response rates were higher in the West and lower in the Northeast, compared to other regions.

One reason for greater completions in the West is due, in part, to the use of OSU interviewers in the Pacific Coast states. They were paid to make repeated callbacks. Some unpaid volunteers understandably were less willing to bear the time and expense required for repeated callbacks. Many did so, however. We were impressed with the diligence many volunteers showed in completing a difficult task. One Tennessee interviewer, for example, made 18 callbacks before completing one interview. Three to five were required in many cases.

Table C-2. Type of project comparisons of completions

	Amusement	Storage	Industrial	Commercial	Medical	Other	Total
	%	%	%	%	%	%	%
Completed	67	100	48	58	57	44	56
Not completed	33	0	52	42	43	56	44
Total	100	100	100	100	100	100	100
(N)	(9)	(10)	(112)	(217)	(21)	(16)	(385)

A chi-square value of 12.38 was obtained significant at the .05 level with five degrees of freedom.

Table C-3. Public/private project comparison of completions

	Public project	Private project	Total
	%	%	%
Completed	54	58	56
Not completed	46	42	44
Total	100	100	100
(N)	(209)	(176)	(385)

A chi-square value of 0.439 was obtained, not significant at one degree of freedom. The proportion of completed interviews was nearly the same for public and private projects.

Significant differences in completions for region and for project type suggests the possibility of allocation bias when sample results estimate national values or effects. Therefore, steps were taken to account for regional and project differences when estimating the effect nationally of Davis-Bacon on construction costs. These included the use of regional and project variables as terms in the equation as well as separate analyses by region and project type. The results of this analysis are discussed in Chapter 4, page 20.

The reasons for noncompletions are instructive as well. Sixty-eight contractors (18%) refused to be inteviewed. Some objected to the time it would take to look up the detailed information on a project completed several years earlier. Others said they were under investigation or in litigation regarding the project. Others simply did not keep appointments after they had been made.

Interviews for 51 projects (13%) were not attempted for a variety of reasons. Some interviewers were reluctant to pursue the matter or cited personal reasons for not wanting to interview a particular respondent. Substitute interviewers were found for some but not for all of these cases. The number of contractors not contacted would have been higher had we not been able to substitute 27 completed test interviews. They were matched with similar projects in which a contact was not made or not possible to make. (A separate analysis shows no difference in results by including these cases, except for a slight improvement in precision.)

Twenty-one projects (5%) were not completed because contractors' records were poor, were lacking in detail, or had become lost, stolen or burned. We noted considerable variability in the quality of record keeping. This was reflected in the number of callbacks that were required to complete an interview as well as in the completeness of information recorded on the interview schedule.

Thirty completed interviews (8%) could not be used because the project was a remodelling job, not a building, partly built by the owner, or state Davis-Bacon laws applied to the project. These projects did not meet our criteria for a project and should not have been sampled. Therefore, we probably should reduce our sample base in calculating response rates. Some of the projects in which interviews were not completed probably should not have been sampled for the same reasons. We have no good way of estimating how many these are; suffice to note that our response rate is higher than the one we are reporting.

APPENDIX D: Frequency Distributions for Project Characteristics

Appendix Table D-1. Frequency Distributions for Project Characteristics (N = 215)

	Number	Percent
1. *Region*		
Northeast	19	8.8
Northcentral	72	33.5
South	85	39.5
West	39	18.1
Total	215	100.0
2. *Type*		
Office-commercial	122	56.7
Industrial	62	28.8
Storage	14	6.5
Medical	11	5.1
Amusement	8	3.7
Other	7	3.3
Total	224*	104.1*
3. *Year Begun*		
1976	9	4.2
1977	110	51.2
1978	86	40.0
1979	10	4.6
Total	215	100.0
4. *Unusual Site Preparation*		
None	138	64.2
Unstable soil	24	11.2
Bedrock requiring special excavation	10	4.6
Heavy soil removal	9	4.2
Move water and sewer lines	8	3.7
Other	41	19.1
Total	230*	107.0*
5. *Type of Foundation*		
Slab on grade	112	52.1
Wall footings	101	47.0
Foundation walls	75	34.9
Column footings	74	34.4
Piles	19	8.8
Caissons	6	2.8
Other	6	2.8
Total	393*	182.8*
6. *Type of Structural Frame*		
Steel column and beam	91	42.3
Masonry	79	36.7
Wood frame	40	18.6
Heavy wood post and beam	21	9.8
Metal wall bearing	20	9.3
Poured in place concrete	9	4.2
Precast concrete	6	2.8
Other	6	2.8
Total	272*	126.5*
7. *Type of Roofing*		
Built-up	117	54.4
Sheetmetal	68	31.6
Shingles	43	20.0
Concrete tile	4	1.9
Clay tile	2	0.9
Other	12	5.6
Total	246*	114.4*
8. *Type of Exterior Wall*		
Brick	107	49.8
Block	92	42.8
Metal	62	28.8
Wood siding	34	15.8
Precast concrete	9	4.2
Cast-in-place concrete	4	1.9
Glass curtain wall	3	1.4
Limestone	2	0.9
Marble	1	0.5
Granite	1	0.5
Other	8	3.7
Total	323*	150.3*
9. *Type of Interior Wall*		
Drywall	137	63.7
Block	104	48.4
Wood	19	8.8
Folding	12	5.6
Brick	11	5.1
Movable	9	4.2
Plaster	8	3.7
Steel	8	3.7
Cast in place concrete	5	2.3
Other	9	4.2
None	13	6.0
Total	335*	155.7*
10. *Type of Structural Floor*		
Slab on grade	159	74.0
Cast in place concrete	40	18.6
Wood	19	8.8
Precast concrete	13	6.0
Metal decking	10	4.7
Composite	6	2.8
Other	10	4.7
Total	257*	119.6*
11. *Type of Floor Finishing*		
Carpeting	120	55.8
Other floor tile (vinyl asbestos)	77	35.8
Sheet vinyl	68	31.6
Ceramic tile	66	30.7
Concrete	50	23.3
Terrazzo	17	7.9
Wood	9	4.2
Other	10	4.7
None	12	5.6
Total	429*	199.6*

12. *Type of Wall Covering*

Paint	160	74.4
Vinyl	59	27.4
Wood paneling	50	23.3
Wall paper	13	6.0
Other	31	14.4
None	17	7.9
Total	350*	153.4*

13. *Air Conditioning Installed*

Yes	153	71.2
No	62	28.8
Total	215	100.0

14. *Sprinkler Installed*

Yes	37	17.2
No	178	82.8
Total	215	100.0

15. *Prefabricated Parts Used*

Prefabricated trusses	113	52.6
Precast concrete planks	22	10.2
Composite panels	21	9.8
Prefabricated buildings	19	8.8
Stairs	16	7.4
Precast concrete panels	15	7.0
Precast concrete columns and beams	15	7.0
Service modules	5	2.3
Other	4	1.9
None	52	24.2
Total	282*	131.2*

16. *Number of Prefabricated Systems*

0	52	24.2
1	106	49.3
2	47	21.9
3	10	4.6
Total	215	100.0

17. *Was this project subject to the federal Davis-Bacon Act?*

Yes	113	52.6
No	102	47.4
Total	215	100.0

*Numbers total more than 215 and percents more than 100 because of multiple responses.

APPENDIX E: Detailed Regression Results

Appendix Table E-1: Regression Results, Determinants of Rural Non-Residential Construction Cost, Alternative Variants, U.S.

Dependent Variable:		Variants					
		LnCS	CS	TC	CS	TC	LnTC
Reference Category	Independent Variables	Coefficients*					
	Ln (square feet)						.744**
							(.041)
	Square Feet		-.17x10^{-3}	24.85**	.68x10^{-3}**	14.30**	
			(.07x10^{-3})	(1.45)	(.15x10^{-3})	(3.12)	
	(Square Feet)^2				.27x10^{-8}**	.65x10^{-4}**	
					(.79x10^{-9})	(.17x10^{-4})	
	Employment						.0014**
							(.0005)
Exterior Walls							
Concrete Block	Metal	-.377	-12.32**		-7.74		-.255*
		(.207)	(4.68)		(4.66)		(.101)
Concrete Block	Precast Concrete	-.378	-13.61				
		(.207)	(9.48)				
Concrete Block	Cast-in-Place Concrete	.521					.523
		(.320)					(.353)
Concrete Block	Marble	-.981	-41.78		-59.65		
		(.561)	(27.64)		(30.59)		
Concrete Block	Glass Curtain Wall			1,476,399**		1,071,306**	
				(334,132)		(33,869)	
Concrete Block	Other			505,698*		431,719*	
				(209,005)		(211,129)*	
Concrete Block	Brick			-205,219*		-184,317*	
				(83,103)		(81,309)	
Building Type:							
Office	Storage	-.576**		-383,171*	-8.37	-495,293*	-.771**
		(.163)		(156,200)	(7.64)	(155,589)	(.177)
Office	Medical			190,602			.377*
				(166,892)			(.166)
Office	Other				13.47		
					(12.40)		
Interior Walls:							
Drywall	Cast-in-Place Concrete	.480	13.94				.482
		(.284)	(12.52)				(.262)
Drywall	Block	.122	8.27		11.17**		.187*
		(.085)	(4.18)		(4.08)		(.844)
Drywall	Other	.428*	9.46				.315*
		(.190)	(9.31)				(.165)
Drywall	Wood	.264					
		(.139)					
Drywall	Movable			601,912**		499,641*	.315*
				(195,793)		(187,950)	(.186)
Drywall	Sliding				9.45		
					(8.36)		
Foundation:							
Slab on grade	Wall footings	.257**	4.48	168,094*	5.86		.265
		(.078)	(3.88)	(75,258)	(3.81)		(.075)
Slab on grade	Foundation walls	.216*	11.69**		10.24*		.167*
		(.084)	(4.16)		(3.96)		(.079)
Roofing:							
Sheetmetal	Shingles					-140,556*	
						(97,292)	
Sheetmetal	Other					345,687	.360*
						(164,188)	(1.82)
Sheetmetal	Concrete Tile			-511,397		-451,642	
				(296,922)		(290,282)	
Sheetmetal	Clay Tile	.940*	36.67				.903**
		(.391)	(19.51)				(.346)
Sheetmetal	Built-up	.176		198,001*		191,114*	181*
		(.094)		(82,167)		(80,860)	(.091)
Floors:							
One or two Floors	More than two Floors			640,096**		580,686*	
				(153,932)		(149,571)	

Appendix Table E-1: Regression Results, Determinants of Rural Non-Residential Construction Cost, Alternative Variants, U.S.—Continued

Dependent Variable:		Variants					
		LnCS	CS *	TC	CS	TC	LnTC
Reference Category	Independent Variables	Coefficients					
Structural Floors:							
Slab on grade	Cast-in-Place Concrete	.133	7.79		10.40*		.241*
		(.102)	(4.99)		(4.77)		(.094)
Slab on grade	Precast Concrete		17.73*	208,747	11.41		
			(8.11)	(162,348)	(8.49)		
Slab on grade	Composite			801,299**		598,279**	.475**
				(229,301)		(225,968)	(.140)
Slab on grade	Wood		14.81*		16.21*		
			(7.42)		(6.76)		
Structural Frame:							
Steel Column and Beam	Heavy Wood Post and Beam		-7.42				
			(6.90)				
Steel Column and Beam	Precast Concrete	.361					
		(.254)					
Steel Column and Beam	Metal wall bearing		-12.48	-144,542	-11.08		
			(7.04)	(133,404)	(6.75)		
Wall Covering:							
No Wall Covering	Vinyl	.115		129,621	-7.58	149,892	
		(.090)		(87,030)	(4.50)	(84,906)	
No Wall Covering	Wood Paneling		-4.40				
			(4.56)				
Site Preparation:							
No Special Preparation	Unstable Soil	.246*			15.56**	155,700	.288*
		(.120)			(6.00)	(114,704)	(.112)
No Special Preparation	Water and Sewer			-357,855			
				(208,630)			
Region:							
Northcentral	South	-177*	-3.56	-164,059*		-148,486	
		(.081)	(4.06)	(78,750)		(76,695)	
Floor Finishing:							
Concrete	None			331,722		297,023	
				(172,697)		(169,203)	
Concrete	Terazzo		-7.25				
			(7.21)				
Concrete	Ceramic tile	.175	6.45		8.19*	121,835	.143
		(.089)	(4.29)		(4.13)	(81,604)	(.085)
Concrete	Other tile				5.22		
					(3.98)		
Davis-Bacon Act							
Not Applicable	Davis-Bacon	.255**	5.51	162,358*	3.48	152,978*	.320**
		(.081)	(3.98)	(75,200)	(3.91)	(73,240)	(.076)
	Constant	2.941**	29.75**	-148,605	30.64**	-148,486	4.96**
		(.114)	(4.68)	(87,903)	(4.49)	(76,695)	(.342)
	N	215	215	215	215	215	185
	Adjusted R^2	.423	.200	.793	.252	.840	.804
	Overall F Statistic	8.8	3.7	42.0	4.6	49.2	44.8

* Standard errors in parentheses beneath the coefficients;
** designates significant at the 1% level, and
* at the 5% level.

Appendix Table E-2. Regression Results, Determinants of Rural Non-Residential Construction Cost (LnTC), by Building Type and Northcentral Region

Building Type and/or Region		U.S. Industrial	U.S. Office	Northcentral	Northcentral
Reference Category	Independent Variable	Coefficients[a]			
	Ln (Square Feet)	.653** (.063)	.637** (.151)	.816** (.344)	736** (.070)	727** (.067)
	Employment	.640x10^{-2}** (.116x10^{-2})				
Interior Walls:						
Drywall	Siding				-.876* (.342)	-1.022** (.355)
Drywall	Block	.500** (.133)	.688** (.151)	.141 (.375)	.388** (150)	.429** (.134)
Drywall	Brick	1.648** (.463)	.870 (.560)			-1.362** (.460)
Drywall	Other	-.642* (.236)	.157 (.134)			1.603* (.655)
Drywall	Wood	-1.124** (.326)	-.691 (.402)			
Drywall	Steel	-.290 (.196)		.765* (.343)		
Drywall	Movable			.392** (.128)		
Drywall	Plaster			.264 (.142)		
Structural Floor:						
Slab on grade	Cast-in-Place Concrete				.697** (.230)	.331 (.221)
Slab on grade	Metal Decking	1.036** (.236)		.413** (.066)		
Slab on grade	Wood	1.138** (.191)	.931** (.208)		.710** (.248)	1.081** (.229)
Slab on grade	Composite		-.703 (.462)	-.344 (.178)		-.413 (.443)
Roofing:						
Sheetmetal	Shingles					-.327 (.218)
Sheetmetal	Built-up	.501** (.154)	.419** (.147)			
Sheetmetal	Clay Tile			.877** (.238)		1.197* (.494)
Building Type:						
Office	Amusement	-.729 (.406)				
Office	Industrial				.498** (.175)	.358* (.164)
Structural Frame:						
Steel	Heavy Wood			-.226 (.127)		-.439 (.307)
Steel	Ordinary Wood	-.658* (.288)				
Steel	Precast Concrete			1.008** (.020)	.934 (.553)	
Wall Covering:						
None	Vinyl			.360** (.067)	.643** (.176)	.728** (.167)
None	Wall Paper		.711 (.356)		1.374** (.378)	1.385** (.333)
None	Wood Paneling		.361 (.206)			
None	Other				.497* (.209)	

Appendix Table E-2. Regression Results, Determinants of Rural Non-Residential Construction Cost (LnTC), by Building Type and Northcentral Region—Continued

Building Type and/or Region		U.S.			Northcentral	
		Industrial	Office			
Reference Category	Independent Variable	Coefficients[a]				
Foundation:						
Slab on grade	Column Footings		.179		-.245	
			(.137)		(.133)	
Slab on grade	Foundation Walls				.241	
					(.133)	
Slab on grade	Wall Footings		.254**	.413**	.112	.333*
			(.128)	(.066)	(.144)	(.146)
Slab on grade	Other	1.145*			-1.866**	-2.241**
		(.508)			(.532)	(.616)
Slab on grade	Caissons		-.543			
			(.350)			
Region						
Northcentral	West			.478**		
				(.092)		
Northcentral	Northeast			.417**		
				(.117)		
Exterior Walls:						
Concrete Block	Cast-in-Place Concrete				2.052**	1.994**
					(.473)	(.642)
Concrete Block	Brick	-.781**	-.366*	.116		
		(.164)	(.162)	(.073)		
Concrete Block	Glass Curtain	-.640	-.825		-.353	
		(.373)	(.459)		(.486)	
Concrete Block	Metal			-.316**	-.696**	-.374*
				(.100)	(.160)	(.143)
Concrete Block	Granite		-.610	-.164		
			(.264)	(.099)		
Concrete Block	Other				-.893*	
					(.406)	
Unusual Site Preparation:						
None	Bedrock	-.604				
		(.386)				
None	Water and Sewer		1.873*			
			(.711)			
None	Unstable Soil					.539*
						(.217)
None	Other	-.221	-.275			
		(.146)	(.141)			
Floor Finishing:						
Concrete	Carpeting	.258	.266			
		(.140)	(.166)			
Concrete	Other Tile	.317*				
		(.136)				
Concrete	Ceramic Tile		.361*			
			(.164)			
Concrete	None			.427*	.792*	
				(.141)	(.352)	

Appendix Table E-2. Regression Results, Determinants of Rural Non-Residential Construction Cost (LaTC), by Building Type and Northcentral Region—Continued

Building Type and/or Region		U.S.			Northcentral	
		Industrial		Office		
Reference Category	Independent Variable	Coefficients[a]				
Davis-Bacon Act:						
Not Applicable	DB	.655**	.331*	.203**	.590*	.470*
		(.140)	(.146)	(.066)	(.145)	(.140)
	Constant	5.163**	5.567**	4.445*	4.869**	4.808*
		(.587)	(.688)	(.299)	(.587)	(.581)
	N	50	52	108	63	72
	F Statistics for Regression	20.8	13.5	78.8	20.2	18.6
	Adjusted R^2	90.0	80.4	94.6	86.1	87.9

[a] Standard errors in parentheses beneath the coefficients;
** designates significant at the 1% level, and
* at the 5% level.

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STATEMENT OF DR. MARTHA NORBY FRAUNDORF, ASSISTANT PROFESSOR OF ECONOMICS, OREGON STATE UNIVERSITY

Dr. FRAUNDORF. Mr. Chairman and members of the subcommittee, I am pleased to present a summary of our research concerning the impact of the Davis-Bacon Act on construction costs in nonmetropolitan areas of the United States.

I'm an assistant professor of economics and have been employed at Oregon State University since 1975, following completion of my Ph. D. in labor economics at Cornell University.

I became involved in this project because of my professional interest in labor markets and in the construction industry, although I'm not involved in the latter as an active participant.

My coauthors, also from Oregon State University, are John P. Farrell, associate professor of economics, and Robert Mason, professor of sociology, Survey Research Center. While many other people assisted with our study, the results and conclusions are ours alone.

In evaluating the impact of the Davis-Bacon Act, one must ask: By how much, if at all, does it raise construction costs? Almost all empirical studies have dwelt on the wage effect, which is not an accurate basis for determining the effect on total costs. Additional costs may be incurred due to changes in the organization and assignment of work, and in the cost of complying with reporting requirements. Costs may also rise if the number of firms competing for contracts is reduced.

On the other hand, substitution of other inputs for labor, changes in management, and higher productivity of workers may offset some or all of the extra costs. Only an empirical study of total costs can determine the full impact of the act.

To get data to estimate the effect of Davis-Bacon on total costs, we interviewed contractors who built selected nonresidential buildings located in a randomly selected sample of 100 rural counties—counties in which the population of the largest city did not exceed 20,000 in 1970.

We selected a sample of similar federally financed and private projects begun during 1977 or 1978.

We examined the location of the 385 general contractors we could locate. The majority of these contractors on both public and private projects came from outside the county in which the project was located. This suggests that the market area may be wider than a one-county area.

In addition, we found there was a significant difference in the location of the contractors on the Davis-Bacon projects and those not subject to any prevailing wage requirement; that is, the private projects.

Originally, the act was passed to remedy the situation described by Representative Bacon, that of " * * * irresponsible contractors with * * * cheap, bootleg labor * * * picking off a contract * * * and local labor and the local contractors have been standing on the sidelines looking in," end quote.

The act as it now operates does not appear to protect local contractors. We found that on private projects, indicated here in the blue [indicating], 47 percent of the contractors on the private projects were local—from the county in which the project was built.

On the public projects covered by Davis-Bacon, indicated here in red [indicating], only 28 percent of the contractors were local.

Contractors on the Davis-Bacon projects more often came from adjacent counties—40 percent—or even further away, 32 percent.

The act also shows us that more of the contractors on public projects, again in red, were from urban areas, 46 percent. On private projects, only 35 percent of the contractors were from urban areas.

Senator NICKLES. These contracts were in rural areas?

Dr. FRAUNDORF. Yes, sir.

What we see, then, is that the use of out-of-county urban contractors is greater on those projects covered by Davis-Bacon than we would expect based on private construction. Davis-Bacon may not be the reason for this shift, but it does not seem to have worked to keep a proportionate share of jobs for local, in-county contractors.

We were able to interview and obtain useable information from contractors on 215 of the projects. The Davis-Bacon Act applied to 113 of these projects; 102 were privately financed and not subject to any prevailing wage requirements.

We asked each contractor for information about the physical characteristics of the building: How many square feet it contained, what type of walls it had, the structural frame used, et cetera. We identified a total of 67 structural characteristics for inclusion in our model.

We also asked for information about what the contractor charged for erecting the building—that is, the bid plus any change orders—and what his costs were in total and for labor, materials, subcontracted work et cetera.

In earlier discussions of the act, the focus was on a variety of DOL practices—the use of urban wage rates in rural areas, reliance on union wage information, and union wage rates, application of the 30-percent rule, and inclusion of wage rates from earlier Davis-Bacon projects—which were cited as raising wages on federally funded construction. Our survey provides evidence that wages are higher on Davis-Bacon projects.

In our sample, contractors on 28 projects, which is 25 percent of the public projects, said they had to raise wages above their normal rate due to Davis-Bacon. In addition, some low-wage contractors may have been discouraged from bidding on the project. The effect was that wage rates were significantly higher on Davis-Bacon projects.

The chart here compares for each trade the average wage paid on the public projects, in red, and the average wage paid on the private projects. For the two most numerous trades: carpenters, the wage on the public projects averaged $9.38; on the private projects, $7.88. That is a difference of 19 percent.

For laborers, $6.55 versus $5.43; that's a 21 percent difference.

The range for all these trades was between 12.9 percent higher for the masons, and 23.2 percent higher for the iron workers.

Wage rates paid to supervisors were not significantly different and, indeed, were slightly less on the public projects.

However, the Davis-Bacon Act may affect costs in other ways as well. There is certainly a difference in the costs of the public and private projects. The 113 federally funded projects cost an average of $708,075, while the 102 private projects cost an average of

$360,504. The public projects were also larger: 19,350 square feet on average, compared to an average of 14,203 for the private projects. Thus, the costs per square foot were $41.12 on the public projects, compared to $33.90 on the private ones—a 21 percent increase.

Differences in the physical characteristics of the buildings and their regional location may account for some or all of the difference. We used a statistical technique, ordinary least squares regression, which holds constant other things such as scale, building characteristics and regional location, so that we could determine how large an effect prevailing wage requirements had on costs. We found that, other things being equal, costs were significantly higher on Davis-Bacon projects by an average of 26 percent.

Size—square footage—is one of the other important determinants of cost. In our best model, a 10 percent increase in size raises costs by 7 percent. It's cheaper per square foot to build one large building than several small ones.

These two variables, plus all the others we included, together explain about 82 percent of the variation in total costs.

Experiments with slightly different versions of our model, such as different formulations of the cost-size relationship or weighting observations to correct for possible under-representation of the Northeast, give us a range of estimates. Based on our regression results, we estimate that nationally Davis-Bacon increases construction costs in rural areas by between 26 and 38 percent.

Why did costs increase by this much?

First, wages were higher.

Second, labor costs increased by more than wage rates. In part, we attribute this to the fact that DOL does not always issue wage rates for "general building mechanic," or does not apply this category to the work in the same way as an open-shop contractor would. Consequently, open-shop contractors on public projects have less flexibility and must pay their less specialized workers on the basis of the prevailing wage for the more specialized and higher paying craft which would otherwise do the work.

Third, our estimates may attribute to Davis-Bacon the cost-increasing effects of other Government regulations. Individual contractors we interviewed described the more exacting specifications for public buildings and/or their problems with affirmative action, especially regarding the use of minority subcontractors. Some said that subcontracting a portion of the work to minority-owned firms caused more problems for them than the prevailing wage requirements.

We did not find significant differences in materials costs, cost of recordkeeping, or profit and overhead charges associated with Davis-Bacon once other variables were taken into account.

Some caution should be used in interpreting or applying our results. First, our estimates are only for the impact of Davis-Bacon on the cost of nonresidential buildings in nonmetropolitan areas. The impact of Davis-Bacon on the cost of projects of other types or in urban areas could conceivably be quite different.

A second cautionary note is that while we include a host of technical characteristics, we have not included every one possible. An omitted characteristic may have an impact and might affect our estimates.

In addition, we think at least a part of the cost effect our model attributes to the Davis-Bacon Act is likely due to other Government programs. These effects cannot be disentangled readily from that of Davis-Bacon. Whenever one applies, so do the others. It is unlikely they would account for all the difference, however.

Furthermore, if the Davis-Bacon Act were repealed, it would not mean a 26 percent decrease in costs unless State prevailing wage laws were also repealed.

That the Davis-Bacon Act increases the cost of public nonresidential buildings in nonmetropolitan areas is fairly certain from our estimates. While we are not certain of the exact size of the impact, our results show that it is likely to be between 26 and 38 percent. This is larger than earlier empirical studies based on wage data for urban or national samples have suggested.

Thank you for allowing me to present our results. I would be happy to answer any questions you might have.

Senator NICKLES. Thank you, Doctor. We appreciate the amount of work that you have done on behalf of the university, and also the Farm Bureau. It is to be commended.

[The prepared statement of Dr. Fraundorf follows:]

February 2, 1982

STATEMENT OF

MARTHA NORBY FRAUNDORF

ASSISTANT PROFESSOR OF ECONOMICS

OREGON STATE UNIVERSITY

BEFORE THE

GOVERNMENT PROCUREMENT SUBCOMMITTEE OF THE

SENATE SMALL BUSINESS COMMITTEE

ON

The Effect of the Davis-Bacon Act on

Construction Costs in Non-Metropolitan Areas

of the United States

Mr. Chairman and Members of the Subcommittee:

I am pleased to present a summary of our research concerning the impact of the Davis-Bacon Act on construction costs in non-metropolitan areas of the United States. The findings I shall summarize are the result of the work my colleagues and I have completed over the last 18 months to collect data and evaluate the effect of this Act. I became

involved in this project because of my professional interest in labor markets and their relationship to the overall functioning of the economy. I have both a teaching and research interest in the construction industry, but I am not involved as an active participant. My coauthors are John P. Farrell, Associate Professor of Economics at Oregon State University, and Robert Mason, Professor of Sociology, Survey Research Center, Oregon State University. I am an Assistant Professor of Economics and have been employed at Oregon State University since 1975, following completion of my Ph.D. in labor economics at Cornell University. While many other people assisted with our study, the results and conclusions are ours alone.

In evaluating the impact of the Davis-Bacon Act, one must ask: by how much (if at all) does it raise construction costs? Almost all empirical studies have dwelt on the wage effect, ignoring the more fundamental and difficult questions of the law's overall effect on costs. The wage effect is not an accurate basis for determining the effect on total costs. Additional costs may be incurred due to changes in the organization and assignment of work and in the cost of complying with reporting requirements. Costs may also rise if the number of firms competing for contracts is reduced. On the other hand, substitution of other inputs for labor, changes in management, and higher productivity of workers may offset some or all of the extra costs. Only an empirical study of total costs can determine the full impact of the Act.

To get data to estimate the effect of Davis-Bacon on total costs, we interviewed contractors who built selected non-residential buildings.

These buildings were all located in a randomly-selected sample of 100 rural counties -- counties in which the population of the largest city did not exceed 20,000 in 1970. We selected a sample of 537 similar federally-financed and private projects from a list we compiled based on permits issued or federal funding granted during 1977 or 1978. After further investigation, we eliminated some because the projects were not really appropriate or because we could not locate the contractor.

We examined the location of the general contractors on the remaining 385 projects. The majority of contractors on both public and private projects came from outside the county in which the project was located (see figure 1). This suggests that the market area is wider than a one county area.

In addition, we found there was a significant difference in the location of the contractors on the Davis-Bacon projects and those not subject to any prevailing wage requirements (the private projects). Originally, the Act was passed to remedy the situation described by Representative Bacon:

> ...irresponsible contractors, with ...cheap, bootleg labor have been going around..."picking" off a contract here and a contract there, and local labor and the local contractors have been standing on the sidelines looking in. The bill is simply to give local labor and the local contractor a fair opportunity to participate in this building program.

The Act as it now operates does not appear to protect local contractors. Indeed, our findings seem to bear out the contention of rural open-shop contractors that the Act makes it more difficult for them to bid successfully. Local contractors were used on 47% of the private (non-Davis-Bacon) projects but only 28% of the public (Davis-Bacon) projects. Contractors

Table 1: Location of Contractor on Public and Private Projects

Nature of Project	Location of Contractor				
	Same County	Contiguous County	Non-Contiguous County	Don't Know	Total
Private					
Number	82	43	49	2	176
Percent	46.6	24.4	27.8	1.1	100.0
Public (Davis-Bacon)					
Number	58	83	68	0	209
Percent	27.8	39.7	32.5	0.0	100.0
Total					
Number	140	126	117	2	385
Percent	36.4	32.7	30.4	0.5	100.0

on the Davis-Bacon projects more often came from adjacent counties (40%) or even further away (32%). Contractors on public (Davis-Bacon) projects were also more likely to come from urban areas (46%) than contractors on private projects (35%). What we see, then, is that the use of out-of-county urban contractors is greater on those projects covered by Davis-Bacon than we would expect based on private construction. Davis-Bacon may not be the sole reason for this shift, but it certainly has not kept a normal share of jobs for local (in county) contractors.

We were able to interview and obtain useable information from contractors on 215 of the projects. The Davis-Bacon Act applied to 113 of these projects; 102 were privately-financed and not subject to any prevailing wage requirements. We asked each contractor for information about the physical characteristics of the building: how many square feet it contained, how many stories it had, what type of structural frame was used, what type of walls it had, etc. We identified a total of 67 structural characteristics for inclusion in our model. We also asked for information about what the contractor charged for erecting the building (the cost to the owner) and what his costs were in total and for labor, materials, sub-

contracted work, etc. We were able to get information about the building's features and the total charge for all 215 projects. The more detailed cost information was not available in all cases.

The main focus in earlier discussions of the effect of the Davis-Bacon Act was its effect on wages. A variety of DOL practices -- the use of urban wage rates in rural areas, reliance on union wage information, application of the thirty-percent rule, and inclusion of wage rates from earlier Davis-Bacon projects -- have been cited as raising wages rates on federally-funded construction. Our survey also provides evidence that wages are higher on Davis-Bacon projects.

In our sample, contractors on 28 projects (25% of the public projects) said they had to raise wages above the normal rate due to Davis-Bacon. For these contractors, the average increase due to Davis-Bacon was 34% for carpenters and 45% for laborers. In addition, other low-wage contractors may have been discouraged from bidding on the project. The effect was that wages were significantly higher on the Davis-Bacon projects. Depending on the trade, wage rates ranged from 12.9% to 23.2% higher on the public projects. As Table 2 and the accompanying figure show, wage rates paid supervisors were not significantly different.

Table 2: Wage Rates by Craft, Public and Private Projects

Craft or Group	Hourly Wage Rate		Percent Increase
	Public (Davis-Bacon) Projects	Private Projects	
Carpenters	$9.378 (65)	$7.875 (54)	19.1
Masons	9.135 (29)	8.029 (21)	12.9
Iron Workers	9.350 (23)	7.586 (16)	23.2
Finishers	7.717 (19)	6.308 (10)	22.3
Operating Engineers	9.751 (18)	8.206 (10)	18.8
Laborer	6.551 (67)	5.428 (50)	20.7
Supervisors	9.689 (35)	9.968 (34)	-2.8

However, the Davis-Bacon Act may affect costs in other ways as well. There is certainly a difference in the costs of the public and private projects in our sample. The 113 federally-funded projects cost an average of $708,075 while the 102 private projects cost an average of $360,504. The public projects also were larger: 19,350 square feet on average, compared to an average of 14,203 for the private projects. Thus, the costs per square foot were $41.12 on the public projects, compared to 33.90 on the private ones -- 21% increase. Not all the cost difference should be attributed to the effect of the Davis-Bacon Act. Differences in the physical characteristics of the buildings and their regional location may account for some or all of the difference. To examine the effect of the Davis-Bacon Act while holding other things constant, we used an ordinary least squares regression of cost on scale, building characteristics, regional location, and Davis-Bacon variables. This is a statistical technique which holds constant all these other things we think influence costs so that we can determine if Davis-Bacon does have an effect on costs and, if so, estimate how large the effect is.

Applying this technique to the data we gathered about the 215 projects, we found that costs were significantly higher on Davis-Bacon projects. In the model we think is the best one, the applicability of the Davis-Bacon Act was associated with a 26% increase in costs. Size (square footage) is one of the other important determinant of costs. In our best model, a 10% increase in size raises costs by 7%. It is cheaper per square foot to build one large building than several small ones. These two variables plus all the others we included together explained about 82% of the variation in total costs. Experiments with slightly different versions of

our model -- such as different formulations of the cost-size relationship or weighting observations to correct for an under-representation of the Northeast -- gave us a range of estimates. Based on our regression results, we estimate that nationally the Davis-Bacon increases construction costs in rural areas by between 26% and 38%.

Why did costs increase by this much? First, wages were higher. Second, labor costs increased by more than wages. In part, we attribute this to the fact that DOL does not always issue wage rates for "general building mechanic" or "construction worker" or does not apply these categories to the work in the same way as open-shop contractors would. Consequently, open-shop contractors on public projects have less flexibility and must pay their less specialized workers on the basis of the prevailing wage for the more specialized craft which would otherwise do the work. Third, our estimates may attribute to Davis-Bacon the cost-increasing effects of other federal or state and local regulations. Individual contractors we interviewed described the more exacting specifications for public buildings and/or their problems with affirmative action, especially regarding the use of minority subcontractors. Some of these rural contractors said that subcontracting a portion of the work to minority-owned firms caused more problems for them than the prevailing wage requirements. We did not find significant differences in materials costs, cost of record-keeping, or profit and overhead charges associated with Davis-Bacon once other variables were taken into account.

Some caution should be used in interpreting or applying our results. First, our estimates are only for the impact of Davis-Bacon on the cost of non-residential buildings in non-metropolitan areas. The impact of Davis-Bacon on the cost of projects in urban areas or of other types could conceivably be quite different. The likelihood of such differences is strongly suggested by the different size effect we observed when separate

estimates were made for the different building types and regions. A second cautionary note is that while our model discriminates among projects via a host of technical characteristics, it does not include every possible component or alternative method of construction. Omitted characteristics may have an effect and may be correlated with the applicability of the Davis-Bacon Act, possibly affecting our estimates. In addition, based on our analysis of the different cost components, we think at least a part of the cost effect our model attributes to the Davis-Bacon Act is likely due to other government programs, such as affirmative action, or different standards for quality and safety. These effects can not be disentangled readily from that of Davis-Bacon; whenever one applies, so do the others. Furthermore, if the Davis-Bacon Act were repealed, it would not mean a 26% decrease in costs unless state prevailing wage laws were repealed.

That the Davis-Bacon Act increases the cost of public non-residential buildings in non-metropolitan areas is fairly certain from our estimates. While we are not certain of the exact size of the impact, our results show that it is likely to be between 26% and 38%. This is larger than earlier empirical studies based on wage data for urban or national samples have suggested.

Thank you for allowing me to present our results. I would be happy to answer any question you might have.

Senator NICKLES. Mr. Fields, I wonder why the Farm Bureau would be involved? I guess a lot of it would have to do with the fact, as you mentioned, that you're taxpayers, so you want to see your tax dollars go as far as possible.

Also the costs of these projects, as alluded to and proven by the study, have been inflated by 26 to 38 percent due to Government regulations according to figures given by Dr. Franudorf. In this case the Davis-Bacon Act has a very negative impact on small businesses and particularly small businesses in rural areas.

Mr. FIELDS. Yes. Of course, this study was centered in the rural counties, the nonmetropolitan counties, because that is, of course, our primary interest. We don't know what the comparable figures would be in the urban areas, but, as you know, more and more of America is moving to the nonmetropolitan counties of this country, so this is an important measure of this.

Another thing this study does not measure, and no one really knows, is what indirect impact this has on a building that a farmer might have to build in a community; in other words, how this escalates wage rates artificially in the rural communities.

Senator NICKLES. Dr. Fraundorf, you alluded to the concept in the Davis-Bacon Act that was to prevent the importation of people coming in and taking away local jobs. Yet, looking at your chart, you pointed out that particularly for rural areas, the majority of the cases were ones where they had to comply with the Davis-Bacon Act and they did import more than the local rates. Is that because there wasn't local labor available?

Dr. FRAUNDORF. First of all, our statistics are for where the contractors are located, not the workers. The workers may or may not have come from those outside areas. But certainly the businesses on the public projects were more likely to come from outside the county in question, so they were importing the contractors.

Now, they may have hired the local workers or they may have brought a lot of their workers from the other county; we don't know to what extent that happened.

Senator NICKLES. So, for a lot of the public construction projects, instead of just importing workers, construction companies are actually being imported. In many cases they probably do some type of commingling, particularly if they have to pay these mandated levels by the Federal Government for each of their classifications. They would bring in their work crews and, in some cases, displace work that might be done by a local contractor, presumably at a more economical rate.

Dr. FRAUNDORF. Yes. We just don't know where the workers are from.

Senator NICKLES. You mentioned in reference to the classification problem, that there is the possibility a worker might not fit into any existing classification. For example, he may be general maintencance or a helper. If that classification weren't in existence, then he would put him into a classification, whatever that classification might be. Do you have any remarks about this?

Dr. FRAUNDORF. It is fairly common for non-union or open-shop contractors to use general building mechanics, is what you might call them. They're not particularly specialized. They do a little bit

of carpentry, a little bit of iron work, a little bit of cement masonry work, a variety of the less-skilled jobs in all sorts of trades.

In some areas, the DOL will issue a prevailing wage for that class. If they do not, however, then the contractor must either pay the worker according to the prevailing wage for each little bit of work he does, which, of course, is a lot of record keeping.

Senator NICKLES. Yes.

Dr. FRAUNDORF. Or must pay the worker the prevailing wage for the highest-paying trade, or must assign that worker just to one trade and have him work at that, so that they have to use their labor force a little differently than they might otherwise, if the DOL does not issue that prevailing wage.

Senator NICKLES. Do you remember what the average size of the contracts were?

Dr. FRAUNDORF. The contracts or the contractors?

Senator NICKLES. The contracts.

Dr. FRAUNDORF. The contracts? Well, for the——

Senator NICKLES. Public contracts, private.

Dr. FRAUNDORF. Public contracts, the average was $708,075.

Senator NICKLES. Did you examine a lot of small contracts? Did you look at any contracts?

Dr. FRAUNDORF. In our sample of the 113 federally funded projects, there were 9 that were less than $100,000, so there are some that are very small.

We basically took the ones we found in our random sample of 100 counties. So we took what was there.

Senator NICKLES. In analyzing it, then, do you think that Davis-Bacon actually discriminates, and hurts, and that it is more punitive in the rural areas than possibly in the urban areas?

Dr. FRAUNDORF. We haven't studied urban areas, so I wouldn't be able to say for sure.

Senator NICKLES. OK.

Dr. FRAUNDORF. You'd have to do a separate study of that.

Senator NICKLES. Well, I'm not ready to commission one today. [Laughter.]

Dr. Fraundorf, we appreciate your testimony, and we look forward, to receiving a complete copy of your report when it's available to review it and to analyze it. We appreciate the excerpts that you've given us today and the amount of work that you've done on it.

Mr. Fields, also, we wish to thank you and the Farm Bureau for your interest in this, and how it applies to the rural areas and segments of America. This is very important from many respects, and we appreciate your input.

Mr. FIELDS. Thank you.

Senator NICKLES. Thank you very much.

The next panel that we have with us today is: Robert Killion from the Tulsa Electric Co. Mr. Burr Kannady from Central Electric Co., and Mr. Dan Stefanoff with the Seco Electric Co. from Tulsa, Okla. Welcome.

Robert, would you care to lead off?

Mr. KILLION. Yes, sir.

Senator NICKLES. Thank you.

STATEMENT OF ROBERT C. KILLION, CO-OWNER, TULSA ELECTRIC CO., INC., TULSA, OKLA.

Mr. KILLION. My name is Bob Killion. I am co-owner of Tulsa Electric Co. in Tulsa, Okla., and I am one of those individuals that you alluded to earlier that has ceased and desisted in doing Davis-Bacon projects.

I would like to thank this committee for allowing this opportunity to present our testimony. I also would like to thank our trade association, the Independent Electrical Contractors, Inc., for helping to arrange this appearance before the committee.

I do hope that my testimony in some way might help to bring about truths, that you are seeking, as to why we refuse to do these kinds of projects, and the burden that they do cause on us as small businessmen.

Our firm is 5 years old in Tulsa. We employ approximately 40 people with year-round employment. We specialize in commercial and industrial type projects. 1980 was the last Davis-Bacon project that we completed.

At that time, we were paying our electricians an average wage of $11.50 per hour. The prevailing wage at that time was approximately $13.65 per hour.

We found a problem in that our employees were all striving to get to this particular project. We found a problem in getting the project completed on time because, again, there was an increase in salary. We found that because of a standard they had become accustomed to, in the time that they were on the job, it then was a morale problem for them to go back to the lesser salary.

We found that the salary that we were paying was an average salary given in the Tulsa area.

I think for the sake of avoiding redundancy in all three of our testimonies, I will just strictly allude to the problems that I had in the salary structure.

I do know that at the present time, and after that job was completed, because of the problems it did cause us, we, again, steered clear and did not bid any more Davis-Bacon. We at this present time do not have any desire to bid any more because of, again, the paperwork, the wage problems, the morale problems that we had, until such time that it is remedied; then we would be more than interested.

In the structure of dollars that would help us in our business, this particular project, the electrical portion was $150,000, which would have made the total project in the neighborhood of $1.5 million.

As you well know in this day and time there is very little that you can construct for the $2,000 to $100,000 range, when you take into consideration all trades, a total concept project. As far as the $100,000 range, that just about covers, many times, one trade.

To be of help to me, it would be necessary for the threshold to be raised to the $1 million to $2 million range.

One thing that was of interest to me was how the salaries are determined. I understand that there is a 30-percent rule that's presently in the Davis-Bacon Act, and, ironically enough, in our area in Tulsa, 80 percent of the electrical work is being accom-

plished by merit-shop contractors. However, this is not taken into consideration as far as determining the wage rate.

I find that we do not have an exclusive to this problem. As a matter of fact, before I left Tulsa, several of the other fellow contractors found that we were coming here to testify, and we were given other testimonies to bring along to submit to you at a later time.

I do appreciate the opportunity to give my testimony on how I feel about this, as an American citizen. I feel it is very important for me to come and speak on just what I feel, and how I try to participate in my business, and make it for the good of all.

If there are any questions that I might answer for you, I would be glad to do that at this time.

Senator NICKLES. Thank you, Mr. Killion.

[The prepared statement of Mr. Killion follows:]

STATEMENT OF ROBERT C. KILLION, TULSA ELECTRIC COMPANY

ON

THE IMPACT OF THE DAVIS-BACON ACT ON SMALL BUSINESS

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT PROCUREMENT

OF THE

SENATE SMALL BUSINESS COMMITTEE

FEBRUARY 2, 1982

MY NAME IS ROBERT KILLION. I AM CO-OWNER OF TULSA ELECTRIC COMPANY, INC., TULSA, OKLAHOMA. I'D LIKE TO EXPRESS MY THANKS TO MY TRADE ASSOCIATION, THE INDEPENDENT ELECTRICAL CONTRACTORS, INC., FOR HELPING ARRANGE FOR MY APPEARANCE BEFORE THIS COMMITTEE. I HOPE MY TESTIMONY WILL IN SOME WAY AID IN BRINGING ABOUT CHANGES IN THE FEDERAL DAVIS-BACON ACT THAT WILL ALLOW SMALL COMPANIES TO BID ON GOVERNMENT CONTRACTS WITHOUT INCURRING THE PROBLEMS THAT MY COMPANY HAS EXPERIENCED. I'D LIKE TO SUMMARIZE BRIEFLY FOR THIS COMMITTEE MY EXPERIENCES AS RELATED IN MY WRITTEN STATEMENT.

TULSA ELECTRIC COMPANY IS A FIVE-YEAR-OLD FIRM, SPECIALIZING IN COMMERCIAL AND INDUSTRIAL CONSTRUCTION WORK. WE EMPLOY AN AVERAGE OF 40 PEOPLE, WITH THE ACTUAL NUMBER DEPENDING UPON HOW MANY PROJECTS WE HAVE AT ANY GIVEN TIME. UNTIL THE MIDDLE OF 1981, TULSA ELECTRIC'S POLICY WAS TO BID ON ANY WORK WE FELT CAPABLE OF DOING ON TIME, WITHIN BUDGET, AND AT A HIGH STANDARD. WE ARE PROUD THAT TULSA ELECTRIC CAN OFFER YEAR-ROUND, FULL-TIME EMPLOYMENT TO ITS WORKERS. HOWEVER, SINCE LAST YEAR, TULSA ELECTRIC WILL NO LONGER BID ON PROJECTS THAT FALL UNDER THE JURISDICTION OF THE FEDERAL DAVIS-BACON ACT. LET ME EXPLAIN WHY.

ABOUT ONE YEAR AGO, TULSA ELECTRIC WAS AWARDED THE ELECTRICAL CONTRACT ON A PEDIATRIC AND DIAGNOSTIC CLINIC THAT WAS FUNDED IN SUCH A WAY TO FALL UNDER DAVIS-BACON. AT THE TIME, THE AVERAGE TULSA ELECTRIC WORKER WAS MAKING $11.50 PER HOUR. THIS WAS ABOUT THE SAME WAGE AS VIRTUALLY ALL ELECTRICIANS IN THE TULSA AREA.

HOWEVER, THE PUBLISHED "PREVAILING" WAGE FOR THIS DAVIS-BACON JOB WAS $13.65 PER HOUR. I WAS, OF COURSE, FORCED TO BID ON THIS SCALE. AT THAT TIME, OVER 80% OF THE ELECTRICAL WORK IN TULSA WAS DONE BY OPEN SHOP CONTRACTORS --YET THE $13.65 WAS MUCH CLOSER TO THE HOURLY RATE THEN BEING PAID TO UNION ELECTRICIANS.

IMMEDIATELY, WE BEGAN HAVING PROBLEMS. MY ELECTRICIANS ALL WANTED TO BE TRANSFERRED FROM OTHER JOBS TO THE DAVIS-BACON WORK. IN ADDITION TO THE HIGHER WAGES, I WAS ASKED TO PAY $1.63 PER HOUR FOR FRINGE BENEFITS ABOVE THOSE MY EMPLOYEES WERE ALREADY RECEIVING THROUGH TULSA ELECTRIC'S EMPLOYEE BENEFIT PLAN. OF COURSE, ONCE THIS JOB WAS DONE, THEIR PAY WOULD GO BACK TO THE STANDARD $11.50 RATE, CAUSING EVEN MORE MORALE PROBLEMS.

ON TOP OF THIS, TO COMPLY WITH ALL OF THE PAPERWORK REQUIRED BY DAVIS-BACON, MY OFFICE WORKER SPENT ANYWHERE FROM 10-15% MORE TIME EACH WEEK ON THIS PROJECT THAN ON ANY OTHER JOB WE WERE THEN DOING. THE COST OF THIS ADDITIONAL TIME WAS BORNE BY TULSA ELECTRIC.

MR. CHAIRMAN, WE HAD NO CHOICE BUT TO PASS THESE COSTS ON TO THE GENERAL CONTRACTOR IN OUR BID, AND, I'M CERTAIN, HE PASSED THEM ALONG TO GOVERNMENT. EVERYONE PAID MORE.

TULSA ELECTRIC WILL NOT BID ANY MORE DAVIS-BACON WORK. WE HAVE TO ADJUST OUR WAGE SCALE, OUR OFFICE OPERATION, AND OUR WORK PATTERNS. WE FEEL THAT, AS MORE COMPANIES LIKE OURS PULL OUT OF THIS WORK, THE NEWER, LESS EXPERIENCED ELECTRICAL CONTRACTORS WILL BID, AND GET, THE WORK, WITH LITTLE OR NO COMPETITION. THEIR FIRMS WILL SOON LEARN ABOUT THE HIDDEN COSTS OF DAVIS-BACON, AND, I'M AFRAID, PAY FOR THEM DEARLY.

IF THE GOVERNMENT WISHES TO GET REAL VALUE FOR ITS CONSTRUCTION DOLLARS, IT WILL HAVE TO MAKE GOVERNMENT WORK MORE ATTRACTIVE TO SMALL AND MEDIUM SIZED CONTRACTORS. THIS PROJECT WAS ONLY ABOUT $150,000--A GOOD SIZED JOB FOR MANY SMALLER FIRMS. BUT NO ONE WILL BID ON IT WITH ALL OF THE DAVIS-BACON RESTRICTIONS. IF I WERE ABLE TO BID GOVERNMENT PROJECTS OF THIS SIZE USING MY COMPANY'S ESTABLISHED PATTERN OF QUALITY WORKMANSHIP, I WOULD. BUT I WILL NOT BID UNDER DAVIS-BACON.

THANK YOU. I'D BE GLAD TO ANSWER ANY QUESTIONS.

Senator NICKLES. I'll have the panel complete their testimonies and then I'll come back and ask specific questions.

Mr. KILLION. OK.

Senator NICKLES. Mr. Stefanoff, do you want to proceed?

Mr. STEFANOFF. Yes, Senator.

STATEMENT OF DAN L. STEFANOFF, PART OWNER, SECO ELECTRIC CO., JENKS, OKLA.

Mr. STEFANOFF. My name is Dan L. Stefanoff. I do represent Seco Electric Co.

We're located in Jenks, Okla., which is just south of Tulsa. We've been in business approximately 15 years. We'll employ an average of about 50 people.

In the early 1970's, much of the work we did was, in fact, Davis-Bacon-related work, especially in the area of new school construction, particularly, in fact, in our own hometown of Jenks, which is a rapidly growing school system and constantly had a school expansion program going on which, of course, fell under the regs of the Davis-Bacon Act.

The ability of our company—and, in fact, we're typical of most small companies—particularly in the construction trades, your key asset is, of course, your labor force. It requires a lot of attention. We have to strive for productivity and cooperation from our work force. We need flexibility among our work force.

You don't put a journeyman electrician doing jobs that are under his skill level. On most construction jobs, we will have a variety of what we will call entry-level people. These are, in many cases, disadvantaged people; in many cases, minorities. They're used on construction jobs for cleanup projects, carrying materials, and assisting journeymen in their work.

Of course, under the Davis-Bacon Act, we're precluded from, in fact, doing that. We simply cannot pay, as is now the prevailing wage in the Tulsa area, over $13 an hour to an individual to carry electrical conduit or unload lighting fixtures. If we have to pay that kind of rate, we'll simply have to put our journeymen electricians on those chores, since they can, of course, do other work at other times.

This, in fact, cuts a large segment of people who might otherwise be underemployed or, in fact, unemployed, out of jobs. Those same people that we can use on non-Davis-Bacon projects we're unable to use and, in fact, in many cases, our contractors are forced to lay those people off when all their work is Davis-Bacon.

The studies that you've heard and the comments that you've heard about the impact of Davis-Bacon on small businesses—we are those small businesses. We're the people that you've heard about this morning. We are the people in this country that Davis-Bacon affects most.

In regard to the 30-percent rule, I'd like to point out to you that, again, in the Tulsa area well over 80 percent of the work done is done by merit shop contractors. Our wage rates, while far from being substandard, are from $8 to $12 an hour. A man is paid on his merit, as a result of his skill level and his productivity. We do not have a negotiated rate, as you know; therefore, the wages are

very diverse. When you stack 80 percent of the total man-hours worked in the Tulsa area at such a diverse wage structure against a solid negotiated rate, we cannot compete with the 30-percent rule. In fact, we probably could not compete with a 50-percent rule because of the diversity in our wage rates.

The study that you heard from Dr. Fraundorf cited nonlocal contractors coming into an area. This is the case in point in Jenks, Okla. For several years, we were the successful—which, in most cases, means the low—bidder on this Jenks school expansion project. We were a local company hiring local men to do work that in fact our very tax dollars were in.

When we stopped doing that work in about 1976, because of our frustration with the requirements of the Davis-Bacon Act, out-of-town contractors started doing that work; in fact, projects that were in our back door. Who is going to do a project more efficiently, more economically, than a contractor whose shop and office is in fact four blocks away from the job site?

When we stopped bidding that work, our name no longer appears on the bid list, the successful and low bidder is no longer there, how much more is it costing the Jenks taxpayers to light and power those buildings?

Pure and simple, Mr. Chairman, the Davis-Bacon Act simply usurps the free enterprise system and is contrary to everything that we understand in the free, competitive system in this country.

I would like to thank our national association, Independent Electrical Contractors, Inc., for arranging for us to be here.

If there are any questions, we'll surely be happy to respond.

Senator NICKLES. Thank you, Mr. Stefanoff.

[The prepared statement of Mr. Stefanoff follows:]

STATEMENT OF DAN L. STEFANOFF, JENKS, OKLAHOMA
BEFORE THE
GOVERNMENT PROCUREMENT SUBCOMMITTEE
OF THE
SENATE SMALL BUSINESS COMMITTEE
FEBRUARY 2, 1982

MY NAME IS DAN L. STEFANOFF. I AM REPRESENTING SECO ELECTRIC COMPANY OF JENKS, OKLAHOMA. I AM A PART OWNER OF SECO, WHICH IS A 15-YEAR OLD CONTRACTING FIRM. SECO EMPLOYS AN AVERAGE OF 50 PEOPLE, RUNNING FROM AS LOW AS 18 TO A HIGH OF 125, DEPENDING UPON THE AMOUNT OF WORK WE HAVE. FOR THE FIRST TEN YEARS OF OUR BUSINESS, WE BID ANY AND ALL PROJECTS WITHIN OUR CAPABILITIES. UNTIL THE MID 1970'S, ABOUT 90% OF THE WORK SECO ELECTRIC DID WAS DAVIS-BACON RELATED WORK, MOSTLY SCHOOL CONSTRUCTION. AT THIS TIME, SECO HAS NO DAVIS-BACON WORK, AND DOES NOT PLAN TO BID ANY IN THE FORESEEABLE FUTURE. THE REASONS FOR OUR CHANGE IN BIDDING POLICIES ARE WHAT I WOULD LIKE TO RELATE TO YOU AT THIS TIME.

THE ABILITY OF SECO ELECTRIC TO GROW AND PROSPER IS COMPLETELY DEPENDENT UPON OUR ABILITY TO BID AND GET WORK, AND TO PERFORM ADEQUATELY. TO DO THIS, WE MUST CONSISTENTLY RECEIVE QUALITY PERFORMANCE FROM OUR WORKERS. BY MAINTAINING A FLEXIBILITY IN OUR WORK UNITS, BY REWARDING MORE HIGHLY SKILLED WORKERS WITH BETTER PAY, AND BY PROVIDING OPPORTUNITIES FOR MINORITIES AND WOMEN TO ENTER OUR COMPANY AT THE LESS SKILLED LEVELS, SECO WAS ABLE TO BECOME A SUCCESSFUL COMPANY. ALL OF THESE ELEMENTS OF SUCCESS WERE DENIED TO US ON OUR LAST DAVIS-BACON JOB, THE JENKS MIDDLE SCHOOL ADDITION, IN 1975.

AT THE TIME, OUR ELECTRICIANS EARNED APPROXIMATELY $7.00 PER HOUR. SINCE THIS JOB WAS A DAVIS-BACON JOB, WE WERE FORCED TO PAY $11.00 PER HOUR, THE SO-CALLED PREVAILING WAGE. OBVIOUSLY, OUR MEN ALL WANTED TO WORK ON THIS JOB BEFORE ANY OF OUR OTHERS. BUT THAT WASN'T OUR BIGGEST PROBLEM. WITH NO HELPER OR LABORER CLASSIFICATION, WE ALSO HAD TO PUT OUR MOST HIGHLY SKILLED WORKERS INTO ALL OF THE REQUIRED POSITIONS ON THIS JOB, SINCE THEY WERE ALL BEING

PAID TOP DOLLAR. WE HAD TO DO THIS EVEN THOUGH SOME JOURNEYMEN WERE, IN EFFECT, DOING LABORERS' WORK. WE COULDN'T AFFORD $11.00 PER HOUR LABORERS. THIS RESULTED IN HAVING TO WASTE THE SKILLS OF QUALIFIED JOURNEYMEN WHO WE COULD HAVE USED ELSEWHERE. ON TOP OF THIS, THESE "HELPER" TYPE JOBS ARE PERFECT FOR WOMEN AND MINORITIES TO FILL AS THEY BEGIN TO LEARN THE ELECTRICAL TRADE. UNDER DAVIS-BACON THEY, TOO, WOULD HAVE TO BE PAID AT INFLATED WAGES.

ONE OVERFLOW PROBLEM THAT I WANT TO POINT OUT. UNTIL WE STOPPED BIDDING DAVIS-BACON JOBS, SECO WAS DOING ALMOST ALL OF THE ELECTRICAL WORK ON SCHOOLS IN THE JENKS SCHOOL SYSTEM. WHEN WE PULLED OUT OF THIS TYPE OF WORK, OTHER FIRMS FROM OUTSIDE THE JENKS AREA BEGAN TO GET THE WORK. IF ONE OF THE PRIMARY PURPOSES OF DAVIS-BACON WAS TO KEEP LOCAL JOBS GOING TO LOCAL CONTRACTORS, IT HAS FAILED MISERABLY IN JENKS, OKLAHOMA. TO ADD TO THIS SITUATION, THE TAXPAYERS IN JENKS NOW PAY MORE TO HAVE THEIR SCHOOLS BUILT BY NON-JENKS FIRMS. IT DOESN'T SEEM RIGHT TO ME.

AS AN ACTIVE MEMBER OF OUR NATIONAL ASSOCIATION, THE INDEPENDENT ELECTRICAL CONTRACTORS, INC., I HAVE HAD OTHER OPPORTUNITIES TO COMMENT ON DAVIS-BACON PROBLEMS. OUR ASSOCIATION IS MOST APPRECIATIVE OF YOUR CONCERN, MR. CHAIRMAN, AND OF HAVING A SMALL BUSINESS COMMITTEE LOOKING AT THIS PROBLEM, BECAUSE IN TODAY'S ECONOMY SMALL COMPANIES SUFFER MOST FROM DAVIS-BACON'S RESTRICTIONS. PUTTING SMALL CONTRACTS UNDER DAVIS-BACON MAKES NO SENSE AT ALL. WE SHOULD BE ENCOURAGING SMALL FIRMS TO BID ON GOVERNMENT PROJECTS, NOT DISCOURAGING THEM BY HAMPERING THEIR ABILITY TO USE THEIR WORKERS IN A PRODUCTIVE MANNER. LET'S OPEN THESE JOBS TO FREE COMPETITION, AND HELP THE TAXPAYER GET HIS MONEY'S WORTH.

THANK YOU FOR YOUR ATTENTION. IF THERE ARE ANY QUESTIONS, I'D BE HAPPY TO ANSWER THEM.

Senator NICKLES. Mr. Kannady.

STATEMENT OF BURR F. KANNADY, OWNER, CENTRAL ELECTRIC CO., TULSA, OKLA.

Mr. KANNADY. Thank you, Senator.

My name is Burr F. Kannady. I am the owner of Central Electric Co. in Tulsa, Okla.

We have been in business for more than 6 years. We do electrical work on all types of projects, mostly commercial and industrial. However, we also do residential work, both single housing and multifamily dwellings. Central Electric Co. has an average of 16 electricians, and each employee works approximately 2,000 hours per year.

In April 1976, our company joint ventured with another firm to change the metering system on a 1,200-unit apartment complex run by the Tulsa Housing Authority. Of course, this work fell under the Davis-Bacon Act restrictions.

I have been personally involved in several Davis-Bacon jobs in the past, in which I personally handled all contracts and paperwork involved, so therefore I feel that I'm very familiar with the requirements of the Davis-Bacon Act.

Mr. Chairman, Central Electric is a small company, and we pride ourselves on our ability to provide a good product at a good price to our clients.

This public housing job was an $89,000 contract, which was the electrical contract only. For a company that does about $700,000 a year in contract volume, this should have been an ideal opportunity for us. It was, instead, the last Government job we participated in. As I explain why, I think you'll see what a great burden Davis-Bacon is on the small business people.

As you can imagine, with only 16 workers, Central Electric does not have the luxury of a large office staff. Our normal paperwork flow keeps our office people extremely busy, but the extra paperwork requirements of a Davis-Bacon Act project completely disrupts our normal office procedures, at great expense to our company in terms of time, money, and staff morale. This is the main reason we will not bid on Davis-Bacon work.

We estimate a minimum of 25 percent more time being spent on paperwork and overall supervision for most Davis-Bacon jobs. Rather than lump-sum figures, we are required to detail each week each employee's pay under each classification. Of course, this also takes time away from other work that needs to be done in the office.

On top of all of this, there are no classifications for the laborer or helper under Davis-Bacon, so all of our employees have to be listed as journeymen or apprentices. This adds to paperwork problems and causes confusion among our workers. They are paid at different scales, under different classifications, on Davis-Bacon jobs than they are on our private jobs. It makes payrolls difficult to figure, and it is impossible for the employees to budget, since they never know what their take-home pay might be.

Our company would love to bid on Davis-Bacon work regularly. However, at this time, we won't bid them because of the paperwork involved with Davis-Bacon, not to mention the inflated wages.

If electrical projects, especially those under $100,000 like this one, continue to be governed by Davis-Bacon, I feel that the taxpayer will continue to pay substantially more than necessary for this work. Free up these smaller projects to open competition, and you'll see Central Electric Co. back in the government-contracting business. One way to get us back would be raising the ridiculously low $2,000 threshold.

In conclusion, I want to express my appreciation to our association, again, for sending the three of us up here.

We'd be happy to answer any questions, and hope that our testimony has helped shed some light on this particular problem.

Senator NICKLES. Thank you, gentlemen.

[The prepared statement fo Mr. Kannady follows:]

STATEMENT OF BURR F. KANNADY, CENTRAL ELECTRIC COMPANY

ON

THE IMPACT OF THE DAVIS-BACON ACT ON SMALL BUSINESS

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT PROCUREMENT

OF THE

SENATE SMALL BUSINESS COMMITTEE

FEBRUARY 2, 1932

MY NAME IS BURR F. KANNADY, AND I AM THE OWNER OF CENTRAL ELECTRIC COMPANY IN TULSA, OKLAHOMA. WE HAVE BEEN IN BUSINESS FOR MORE THAN SIX YEARS. WE DO ELECTRICAL WORK ON ALL TYPES OF PROJECTS, MOSTLY COMMERCIAL AND INDUSTRIAL. HOWEVER, WE ALSO DO RESIDENTIAL WORK, BOTH SINGLE HOUSES AND MULTI-FAMILY DWELLINGS. CENTRAL ELECTRIC HAS AN AVERAGE OF 16 ELECTRICIANS AND EACH EMPLOYEE WORKS A FULL 2,000 HOURS PER YEAR.

IN APRIL, 1976, CENTRAL ELECTRIC JOINT VENTURED WITH ANOTHER FIRM TO CHANGE THE METERING SYSTEM ON A 1,200 UNIT APARTMENT COMPLEX RUN BY THE TULSA HOUSING AUTHORITY. THE WORK FELL UNDER THE DAVIS-BACON ACT RESTRICTIONS. I HAVE BEEN INVOLVED IN SEVERAL DAVIS-BACON JOBS IN THE PAST IN WHICH I PERSONALLY HANDLED ALL CONTRACTS AND PAPER-WORK INVOLVED.

MR. CHAIRMAN, CENTRAL ELECTRIC IS A SMALL COMPANY. WE PRIDE OURSELVES ON OUR ABILITY TO PROVIDE A GOOD PRODUCT AT A GOOD PRICE TO OUR CLIENTS. THIS PUBLIC HOUSING JOB WAS AN $39,000 CONTRACT. FOR A COMPANY THAT DOES ABOUT $700,000 A YEAR IN CONTRACT VOLUME, THIS SHOULD HAVE BEEN AN IDEAL OPPORTUNITY FOR CENTRAL. IT WAS, INSTEAD, THE LAST GOVERNMENT JOB WE PARTICIPATED IN. AS I EXPLAIN WHY, I THINK YOU'LL SEE WHAT A GREAT BURDEN DAVIS-BACON IS ON SMALL BUSINESSMEN.

AS YOU CAN IMAGINE, WITH ONLY 16 WORKERS, CENTRAL ELECTRIC DOES NOT HAVE THE LUXURY OF A LARGE OFFICE STAFF. OUR NORMAL PAPERWORK FLOW KEEPS OUR OFFICE PEOPLE EXTREMELY BUSY. BUT THE EXTRA PAPERWORK REQUIREMENTS OF A DAVIS-BACON PROJECT COMPLETELY DIS-

RUPTS OUR NORMAL OFFICE PROCEDURES, AT GREAT EXPENSE TO CENTRAL ELECTRIC IN TERMS OF TIME, MONEY, AND STAFF MORALE. THIS IS THE MAIN REASON WE WILL NOT BID ON DAVIS-BACON WORK.

WE ESTIMATE A MINIMUM OF 25% MORE TIME BEING SPENT ON PAPERWORK FOR MOST DAVIS-BACON JOBS. RATHER THAN LUMP SUM FIGURES, WE ARE REQUIRED TO DETAIL, EACH WEEK, EACH EMPLOYEE'S PAY UNDER EACH CLASSIFICATION. OF COURSE, THIS ALSO TAKES TIME AWAY FROM OTHER WORK THAT NEEDS TO BE DONE.

ON TOP OF ALL THIS, THERE ARE NO CLASSIFICATIONS FOR LABORER OR "HELPER" UNDER DAVIS-BACON, SO ALL OF OUR EMPLOYEES HAVE TO BE LISTED AS JOURNEYMEN OR APPRENTICES. THIS ADDS TO OUR PAPERWORK PROBLEM, AND CAUSES CONFUSION AMONG OUR WORKERS. THEY ARE PAID AT DIFFERENT SCALES, UNDER DIFFERENT CLASSIFICATIONS, ON DAVIS-BACON JOBS THAN THEY ARE ON OUR PRIVATE JOBS. IT MAKES PAYROLLS DIFFICULT TO FIGURE, AND IT IS IMPOSSIBLE FOR THE EMPLOYEES TO BUDGET SINCE THEY NEVER KNOW WHAT THEIR TAKE-HOME PAY WILL BE.

OUR COMPANY WOULD LOVE TO BID ON DAVIS-BACON WORK REGULARLY. HOWEVER, AT THIS TIME, WE WON'T BID THEM BECAUSE OF THE PAPERWORK INVOLVED WITH DAVIS-BACON, NOT TO MENTION THE INFLATED WAGES.

IF PROJECTS, ESPECIALLY THOSE UNDER $100,000 LIKE THIS ONE, CONTINUE TO BE GOVERNED BY DAVIS-BACON, I FEEL CERTAIN THAT THE TAXPAYER WILL CONTINUE TO PAY SUBSTANTIALLY MORE THAN NECESSARY FOR THIS WORK. FREE UP THESE SMALLER PROJECTS TO OPEN COMPETITION, AND YOU'LL SEE CENTRAL ELECTRIC BACK IN THE GOVERNMENT CONTRACT BUSINESS. ONE WAY TO GET US BACK WOULD BE RAISING THE RIDICULOUSLY LOW $2,000 THRESHOLD.

IN CONCLUSION, I ALSO WANT TO EXPRESS MY APPRECIATION TO THE INDEPENDENT ELECTRICAL CONTRACTORS, INC., FOR PROVIDING THIS OPPORTUNITY TO ME. I'D BE HAPPY TO ANSWER ANY QUESTIONS, AND I HOPE I'VE HELPED SHED SOME LIGHT ON THIS PROBLEM.

THANK YOU.

Senator NICKLES. I have the impression from the three of you that you wouldn't bid on Federal contracts over $2,000, which almost any contract would be or any that would apply to Davis-Bacon. There might be a contract that would be less than $2,000, but it probably wouldn't be one that would grab your attention.

The thrust of your statements was that because of the problems it caused, you would therefore, no longer bid on that particular type of work. Are there a lot of people in your neighborhood who have come to that same conclusion, or out of 100 electrical contractors, are you the only 3 in that neighborhood who decided not to? I'm trying to get some kind of feel for this. What percentage of electrical contractors in the neighborhood, do you think, have decided to stay away from these types of contracts?

Mr. STEFANOFF. Senator, I think probably the most accurate way to answer that is this: As a contractor plans and looks ahead and forecasts his workload, which is something very important to us—let me interject a point here. We don't have a labor pool. We don't have a, quote, high haul. We all attempt to keep a very stable work force. We are very concerned about our employees working their 2,000 hours per year. We're not interested in our people working when we need them, and then being off when we don't. So forecasting our workload is very important.

Merit shop contractors in the Tulsa area bid Davis-Bacon work when in fact it is necessary for them to go after those jobs to maintain a workload, to try to maintain a steady workload. If there is other work out to keep their shops busy, they will stay away from the Davis-Bacon Act.

I may also say that in a Davis-Bacon job, besides the increased costs that we know we're going to suffer, there is, in fact, the unknown element of the varying interpretations of all the Davis-Bacon regulations. In a construction site, at a construction job, there is an element of the estimate called contingency, and there is a fat contingency that any contractor must figure in his job estimate to cover those unforeseen expenses.

Usually, those differences in interpretation are found in the area of job classification, as has been touched on earlier.

Senator NICKLES. I was interested, Mr. Stefanoff, in your comment that being a local contractor you decided not to bid. So now you have firms basically coming in from the outside to do the local contracts.

I'm thinking of the taxpayers from Jenks and their desire to have the best quality work, in addition to the most economical work, I can't help but think the amount of service that's involved in electric, the followups, the changes that need to be made periodically, as rooms are moved or whatever, and how that repeated and continually added cost would be coming about.

So not only are the taxpayers paying a higher dollar figure but their quality of service is bound to not be quite as good. If you're in that local area and those people know you and you go to their chamber of commerce meeting or you go to their Rotary Club or whatever it may be, you're in daily contact. It's to your advantage and to theirs to insure quality of work that's at a very high level. It may not be quite the same thing if you're talking about importing a crew, and having them get the contract.

If you do come up with the lowest bid, it may be because a lot of the other people decided not to bid. Therefore those local people may not be getting the best dollar value, but they also may not be getting the same type of service. I don't know that that's been brought out before.

Mr. STEFANOFF. That's a very valid point, Senator. I can assure you that the school boards and school administrations in the Tulsa area are, of course, quite concerned about the Davis-Bacon. They're quite interested in our mission here today. They realize the increased cost and, in fact, inconvenience that is caused them by the requirements of the Davis-Bacon. Your point is very valid.

Senator NICKLES. Mr. Killion, I want to ask you a question about the cost. You talked about the prevailing wage. You mentioned you thought maybe the average wage in the Tulsa area was $11.50 or so? Was this a year or so ago?

Mr. KILLION. Yes.

Senator NICKLES. The so-called DOL-mandated prevailing wage was $13.65, so you had to pay $13.65 for all your journeymen to do that labor?

Mr. KILLION. That's correct.

Senator NICKLES. Your average rate before that was $11.50?

Mr. KILLION. Yes.

Senator NICKLES. How does that work? You were paying them $11.50 on this contract. Let's say they were wiring a commercial building of some kind, and they go over to wire, say, the schoolhouse maybe on the same day. How would you handle your trucks running around doing that job and maybe going over to do another job? Would this person be paid 4 hours to work on the meat plant and 4 hours at a different rate to do the housing unit for the Federal Government? How do you keep track of that?

Mr. KILLION. Yes, sir, as a fact of the matter, Senator, that's exactly what happens. We will take our employees and, of course, as you well know, in a construction project, as you begin a project, you don't always just go on the job and stay there from start to finish, so I think this is probably one of the things Mr. Kannady was alluding to a while ago in the increased paperwork.

For one thing, when your employee works at one project—as you said, a non-Davis-Bacon project—and then 2 hours later you have him at another project, you know, it is an increased burden on us to make sure he is paid that salary during the period of time he's there.

And I think this is probably another point that Mr. Kannady was bringing out in the fact that it's hard for the employee to budget, not knowing what kind of a salary he's going to bring home this week, because there is such a variance in it.

We establish our salaries with our employees based on their capabilities, based on their experience, based on their tenure of service in the particular trade that they're in, and we evaluate this through their training, their apprenticeship program, whether they have actually graduated from a 4-year accredited school, and, you know, there are several things that go into the characteristics or the makeup that makes a qualified tradesman in his area.

Senator NICKLES. Let me just ask a couple of questions.

Do you feel that there is inaccuracy in application of the 30 percent rule to establish the prevailing wage?

Mr. KILLION. Yes.

Senator NICKLES. In your case, you're saying it's $2.15 more than, quote, the average. You also made a comment that the administration has proposed changing that 30-percent rule to a 50-percent rule. Would the 50-percent rule accurately reflect wages in your neighborhood, or would there still be some discrepancies?

Mr. KILLION. In my opinion, there would still be some discrepancies. It would be a step in the direction of at least trying to rectify the discrepancies. Of course, the best way to completely remove the discrepancies is to repeal the entire act.

Any time you have a total lack of recognition of a craft doing a major percentage of the work in an area—in this case, whether it would be 30 or 50 percent, I believe it would totally disacknowledge the majority of the work being done in a given area. It goes back to an area that I'm not really versed on, how they established the 30 percent and the 50 percent rule, but the best I can understand, they gather that information based on local, more organized information.

Senator NICKLES. Are you familiar with the weighted average concept, where basically that is an average?

Mr. KILLION. Yes, sir.

Senator NICKLES. You take 10 people, and what they're making, and so on?

Mr. KILLION. Yes, sir.

Senator NICKLES. Do you think that would more accurately reflect what the actual wages are?

Mr. KILLION. Yes, sir.

Senator NICKLES. Then if it had to be determined it would be a more accurate way of determining a prevailing wage?

Mr. KILLION. Determining all people involved, yes, sir.

Senator NICKLES. Mr. Kannady, you were talking about the paperwork. I think you mentioned you had 16 employees?

Mr. KANNADY. Yes.

Senator NICKLES. Just office employees?

Mr. KANNADY. No; this is total employees.

Senator NICKLES. Sixteen total employees. You mentioned each week you're required to fill out the payroll and the rate of pay. Would you explain that weekly report that you have to put in?

Mr. KANNADY. Yes, Senator. In the reporting forms, of course, by using the prevailing wage rate, there are several other benefits that go along with the prevailing wage rate, different fringe benefits that have to be added into a person's weekly salary. And, as has been brought out earlier in the testimony, a person doesn't necessarily work on the same job every day, so at the end of the week when you, in my particular case, have a one-girl office and start payroll, to figure out the total amount of hours worked on a Davis-Bacon job versus non-Davis-Bacon job, also the benefits that are added into each employee's salary that particular week, we feel that at least 25 percent of her time is used in regard to a Davis-Bacon job just strictly in paperwork alone.

Senator NICKLES. Do you think the Department of Labor pays very much attention to those weekly reports that you send in?

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Mr. KANNADY. I don't personally feel it is that beneficial.

UNIDENTIFIED PERSON IN AUDIENCE. We absolutely do.

Senator NICKLES. I'm going to ask you another question, Mr. Stefanoff, kind of on the same thing. You mentioned that the normal custom you have is to bring in some people at entry-level jobs, possibly minorities or unemployed people who have no skills, and you begin them with some of the cleaning up and so on. Maybe they can work up into an apprentice position or possibly into journeyman. But under the Davis-Bacon Act as currently administered, you're prohibited from doing that because you have to pay helpers journeyman rates or apprentice rates. Is that correct?

Mr. STEFANOFF. Exactly, Senator. If, in fact, you're going to have to pay a man the rate for a laborer's pay, as stipulated usually in the job specifications, the rate of laborer's pay as spelled out by the State secretary of labor, you cannot afford to pay an unskilled worker even $8 an hour.

Senator NICKLES. What is that rate?

Mr. STEFANOFF. The last job I did, Senator, you have to understand, was in about 1977. As I recall, the journeyman prevailing wage then was something like $8 an hour, according to the specifications. The labor was something like $7 an hour and, of course, that was 5 years ago, you know, what all wages for unskilled workers were at that time.

If in fact we're going to have to pay an inflated rate, we're simply not going to be able to hire those unskilled people. We'll put our journeymen or our apprentices on those cleanup tasks, because obviously when they're through with those cleanup tasks, they have the skill levels to do other things. It simply blocks out those otherwise disadvantaged individuals from an opportunity to enter the construction trades.

The normal scheme of things in a small shop—and you understand that most work in this country is done by small shops, not national concerns—but the normal route of things is that an individual is brought into your shop at an entry level. After he's there a while and you can gauge his potential for success, we'll enter him into our apprenticeship program that was organized by our association. He goes through a 4-year course of study and then obtains his license and is, in fact, a journeyman electrician.

But he has to get in the trade sometime or another. That's always at the entry level. Obviously, no one is going to break into the electrical trade by getting a job on a Davis-Bacon.

Senator NICKLES. So in effect this Government, which says, yes, we're going to open up opportunities and jobs for the disadvantaged and unemployed, and this Government which many of us have promoted, has actually closed the door of opportunity for a lot of these very people that we're trying to help?

Mr. STEFANOFF. Exactly. In the viewpoint of a small businessman, it has done that. You're certainly going to hear arguments from other people who say we ought to accept our social responsibility and hire those people, anyway. Economic considerations, of course, prove themselves.

Senator, if I may, I'd like to touch one more time on the 30-percent rule. I want to make the point that even if the 30-percent rule were 80 or 90 even percent, probably it would not help because of

the diversity of our wage rates. There is probably no one wage rate—for example, $10.06 an hour—that is even 2 percent of the total wages paid in the merit shops, again, because the wages are so diverse.

So any kind of rule that applies, as you mentioned, other than a simple, weighted average, is not going to reflect the true prevailing wages in an area.

Senator NICKLES. Gentlemen, we thank you very much for your input and personal account of how the Davis-Bacon Act has affected your firms. We appreciate it very much.

Mr. STEFANOFF. Thank you.

Mr. KILLION. Thank you, Senator.

Mr. KANNADY. Thank you.

Senator NICKLES. For our next panel today, we have Mike Roush and Mike McKevitt with the National Federation of Independent Business, Joseph Brown from Beach Build Corp., Virginia Beach, and John Downey from Buildex Design, Inc., Alexandria.

Mr. Roush, welcome. It's good to see you before a different committee, but again.

Mr. ROUSH. Thank you, Senator.

Senator NICKLES. Welcome, Mr. Downey and Mr. Brown.

Go ahead.

Mr. ROUSH. Thank you, Mr. Chairman.

STATEMENT OF MICHAEL O. ROUSH, LEGISLATIVE REPRESENTATIVE, NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Mr. ROUSH. As you know, my name is Mike Roush, and it is a pleasure to be here this morning.

The National Federation of Independent Business, which has in excess of 500,000 small business members, is pleased to participate in this hearing regarding the impact of the $2,000 Davis-Bacon contract threshold on small construction firms.

My comments this morning will be abbreviated, because I think the more valuable information is from the small contractors themselves.

As of October 1981, about 57,000 of NFIB members were small construction firms. These firms employed a total of about 850,000 people. About one-third of these construction firms are on Government contract.

Because NFIB represents such a broad sampling of the small business community, and such a significant percentage of NFIB's members are subject to the Davis-Bacon Act, it is easy to see that the law can have an enormous impact on the economy.

The most desirable action that Congress could take in regard to the Davis-Bacon Act is to repeal it, from our members' point of view. In the alternative, the act should be amended so as to be applicable to firms that have Federal contracts of $1 million or more. This would have the effect of exempting from Davis-Bacon provisions the majority of Federal construction contracts.

The Office of Federal Procurement Policy reports that in fiscal year 1981, the Federal Government was party to 7,906 construction contracts for over $10,000. Of these, 822 were for more than $1 mil-

lion. These projects are usually quite significant and employ many people.

However, small companies with 20 or fewer employees rarely, if ever, enter into contracts of this size. They must confine their activities to smaller contracts or subcontracts. A large company, however, is capable of bidding on large contracts, as well as small contracts. Consequently, the effect of a $1 million threshold would be to exempt from Davis-Bacon requirements those contracts that small businesses are most likely to be awarded. This would eliminate small business' inhibitions from bidding on Federal construction contracts.

This exemption would cover about 85 to 90 percent of all Federal construction contracts. However, it would only cover about 15 to 20 percent of the total Federal dollars obligated under Federal construction contracts. We can fairly assume that because the 85 to 90 percent exempted contracts account for only 15 to 20 percent of the obligated Federal dollars, the vast majority of workers on Federal projects are employed by firms that have Federal contracts of $1 million or over. This is because in the universe of Federal construction contracts, the number of employed workers will be directly proportional to the size of the contract.

The 822 contracts over $1 million that I mentioned account for 84.5 percent of total obligated Federal dollars. Consequently, the 822 Federal contracts over $1 million account for the vast majority of people employed and subject to the Davis-Bacon Act.

The $1 million Davis-Bacon contract threshold would eliminate a very costly burden to many small businesses. However, it would have no effect on the vast majority of workers on Federal construction projects.

If the small business sector of our economy is expected to continue to be the Nation's economic foundation, then an amendment to the Davis-Bacon Act such as I've outlined is one of many legislative actions that are necessary.

I think I'll end at that point, and if I could, I'd just like to submit for the record a pamphlet that we have put together and used in the past on Davis-Bacon.

Senator NICKLES. We will enter it into the record at this point.

[The prepared statement and additional information of Mr. Roush follow:]

NFIB National Federation of Independent Business

STATEMENT OF

MICHAEL O. ROUSH

LEGISLATIVE REPRESENTATIVE
NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Before: Subcommittee on Government Procurement

Subject: Davis-Bacon Act

Date: February 2, 1982

Introduction

The National Federation of Independent Business (NFIB), which has in excess of 500,000 small business members, is pleased to participate in this hearing regarding the impact of the $2,000 Davis-Bacon contract threshold on small construction firms.

As of October, 1981, about 57,426 of NFIB's members were small construction firms. These firms employed a total of about 853,105 people. About one-third of these construction firms are on government contract. Because NFIB represents such a broad sampling of the small business community, and such a significant percentage of NFIB's members are subject to the Davis-Bacon Act, it is easy to see that the law can have an impressive affect on the economy.

NFIB members have voted overwhelmingly to support repeal of the Davis-Bacon Act not only because of regulatory, paperwork and other cost burdens imposed on contractors, but because the law is obsolete and inflationary.

The Act's requirement that federal contractors pay the "prevailing wage" was intended by Congress to mean that contractors pay the average wage paid to each trade on private "projects of a character similar to (the federal) contract work in the city, town, village or other civic subdivision", where the public project was to be located. Major problems that have arisen in the interpretation of this ambiguous statute, and that remain today, are: just what is "prevailing", what is "a character similar", and what is immediate "city, town ..."?

The Department of Labor (DOL) has so misconstrued the law that implementation costs associated with paperwork, regulations regarding helpers and learners and inflationary formulas for determining the prevailing wage have driven the costs of federal construction to unprecedented levels.

Impact on Small Business

The Act has proven to be especially burdensome to small businesses because it discourages them from bidding on federal projects. This is because the Department of Labor prevailing wage determination is more often than not higher than the true wage in an area. Once a business accepts a federal construction contract and agrees to pay the prevailing wage as determined by the Department of Labor, it often feels compelled to pay all of its employees the prevailing wage, whether or not they work on the federal project. Also, once the project is complete, the firm

often feels that if it reduced wages to the level paid before it entered the federal contract, labor relations would be strained. As a result, only large businesses, usually located in urban areas, feel comfortable in bidding on a federal project.

In addition to disrupting wage scales, the current DOL implementing regulations severely limit the use of helpers and trainees. This limitation is costly to contractors because it necessitates paying wages that exceed the productivity yield of inexperienced workers.

The implementing regulations also require substantial paperwork. Perhaps the most burdensome is the requirement for a weekly submission of the contractor's payroll records to the Department of Labor. A small contractor cannot afford to hire the staff, or a specialized firm to do this work.

The costs of these inflated wages and paperwork requirements go far beyond the payroll. They increase an employer's unemployment compensation taxes, his workers' compensation taxes and his social security taxes. Some of these costs can be passed onto the customer (the Federal Government), and some can be accomodated for by hiring fewer people. The aggregate effect is a higher unemployment rate, a higher inflation rate and a bigger federal deficit.

Recommendations

The most desirable action Congress could take in regard to the Davis-Bacon Act is to repeal it. In the

alternative, the Act should be amended so as to be applicable to firms that have a federal contract of $1,000,000 or more. This would have the effect of exempting from Davis-Bacon provisions the majority of federal construction contracts.

The Office of Federal Procurement Policy reports that in Fiscal Year 1981, the Federal Government was party to 7,906 construction contracts for over $10,000 (See Table I). Of these, about 822 (10.40%) were for more than $1,000,000. These projects are usually quite significant and employ many people. However, small companies (20 or fewer employees) rarely, if ever, enter into a contract of this size. They must confine their activities to smaller contracts or subcontracts. A large company, however, is capable of bidding on large contracts as well as small contracts. Consequently, the effect of a $1,000,000 threshold would be to exempt from Davis-Bacon requirements those contracts that small businesses are most likely to be awarded. This would eliminate small business inhibitions about bidding on a federal construction contract.

This exemption would cover about 85 to 90 percent of all the federal construction contracts. However, it would only cover about 15 to 20 percent of the total federal dollars obligated under federal construction contracts. We can fairly assume that because the 85 to 90 percent exempted contracts account for only 15 to 20 percent of the obligated federal dollars, the vast majority of workers on federal projects are employed by firms that have a federal contract over $1,000,000. This is because in the universe of federal construction contracts, the number of employed workers will be directly proportional to the size of the contract. The 822 federal contracts over $1,000,000

account for 84.46 percent of total obligated federal dollars. Consequently, the 822 federal contracts over $1,000,000 account for the vast majority of people employed and subject to the Davis-Bacon Act.

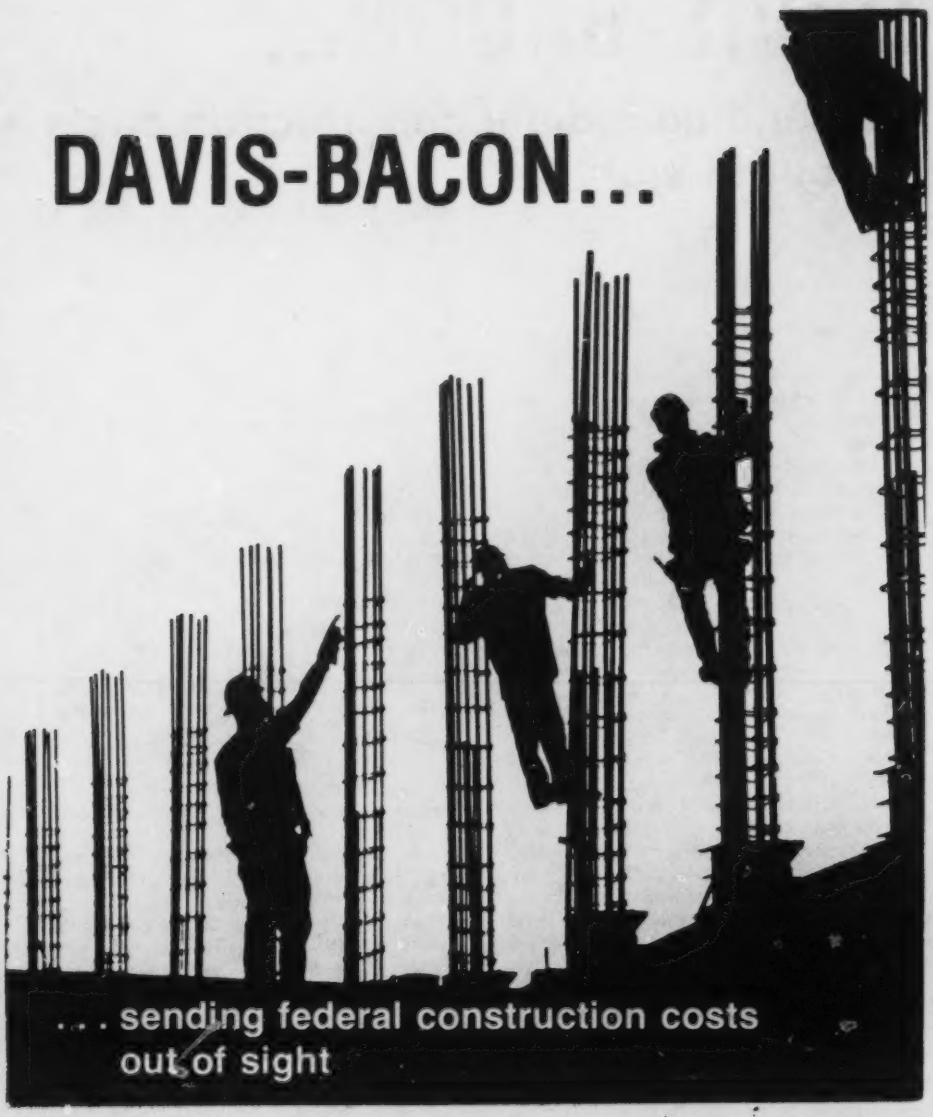
A $1,000,000 Davis-Bacon contract threshold would eliminate a very costly burden to many small businesses. However, it would have no effect on the vast majority of workers on federal construction projects. If the small business sector of our economy is expected to continue to be the nation's economic foundation, then an amendment to this law is one of many legislative actions that are necessary.

TABLE I*

FEDERAL CONSTRUCTION CONTRACTS OVER $10,000 BY DOLAR RANGES

Contract Dollar Range	Total Dollars (Thousands)	Number of Contracts
$10,000 - 25,000	32,158	1,994
$26,000 - 50,000	44,725	1,242
$51,000 - 100,000	102,593	1,404
$101,000 - 250,000	195,457	1,252
$251,000 - 500,000	243,067	689
$501,000 - 1,000,000	357,161	503
More than $1,000,000	5,300,706 (84.46% of Total)	822
TOTAL	6,275,867	7,906

*Source: Office of Federal Procurement Policy


DAVIS-BACON...
. . . sending federal construction costs
out of sight

DAVIS-BACON...

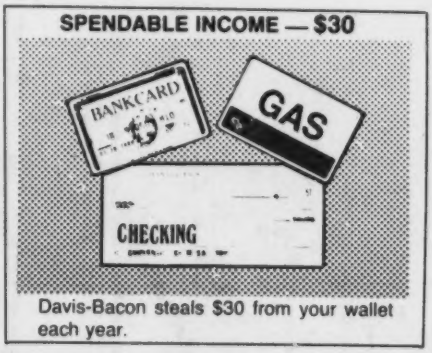
. . . sending federal construction costs out of sight

Poll after poll now reveals that inflation is the number one concern of the American public. And well it should be. Over the past decade, the value of our dollar has been halved. If runaway inflation can be brought under control, the United States still has a bright future. But if inflation continues at its present rate, our economic prosperity will deteriorate, especially in low and middle income families, whom inflation hits the hardest.

Controlling inflation is a giant problem; it has no single solution. However, if the dollar's decline is to be halted, wasteful government spending will have to be stopped. At the end of this fiscal year, the federal budget deficit for the seventies will total well over $300 billion.

The public seems to have recognized at last that big and wasteful government spending is a root cause of inflation. And the public has been outraged enough to do something about it. Passage of Proposition 13 in California in the Spring of 1978 proves that. Now it is up to Congress to demonstrate that it shares the public's concern about inflation.

"Because of the [1] significant increased costs to the federal government, [2] the large impact excessive wage determinations have on inflating construction costs and disturbing local wage scales, and [3] the fact that contractors tend to pay prevailing rates — the intent of the act — where [Department of Labor] determinations are too low, GAO [the General Accounting Office] recommends that the Congress repeal the Davis-Bacon Act."



Davis-Bacon steals $30 from your wallet each year.

That's the conclusion reached by U.S. Comptroller General Elmer B. Staats in a draft report circulated among several federal agencies in December 1978 and January 1979. And unless pressure to sharply modify this report is brought to bear on the General Accounting Office, an investigative arm of Congress, that's the recommendation this Congressional "watchdog" will carry to the White House, Capitol Hill and the public, early in the 96th Congress.

When the final GAO report arrives on Executive and Congressional desks, it will no doubt be cloaked in controversy. This independent report, the ninth such GAO report citing the inadequacies of Davis-Bacon and its administration, confirms what construction contractors familiar with the act have known for decades – it is expensive and difficult, if not impossible, to administer and comply with. And it drives up the cost of public construction, adding billions of dollars to the nation's budget deficit annually. Today, Davis-Bacon often has an effect on local construction wages that is exactly the opposite of that Congress intended when it passed the act almost 50 years ago.

"A government that is dead serious about fighting inflation ought also, at long last... to put an end to the laws, regulations and practices that make government an accomplice in many cost and price-propping actions, [including] the Davis-Bacon Act."

–Former Council of Economic Advisers Chairman Walter Heller

The General Accounting Office and construction management do not stand alone in their call for Davis-Bacon repeal. Many others, including former Council of Economic Advisers Chairmen Walter Heller, Charles Schultze, Paul McCracken and Alan Greenspan also have called for the removal of the act's restrictions. For example, Greenspan found that wages on federal construction "were so rigged on what clearly are non-competitive levels...the only solution is to open up the forces of competition by eliminating this artificial wage-support legislation."

This brochure will answer some of your questions about the Davis-Bacon Act, and aid you in sorting the facts from the myths.

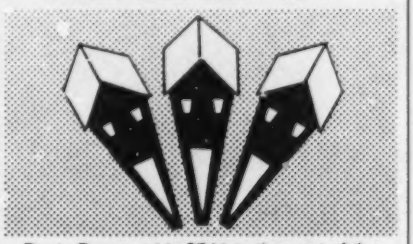
WHAT IS THE DAVIS-BACON ACT?

The Davis-Bacon Act was signed into law on March 31, 1931 by President Herbert Hoover. It was the first federal law governing minimum wages for non-federal employees. Interestingly, it was passed by the House under suspension of the rules, a procedure usually reserved for non-controversial bills.

Davis-Bacon is commonly considered a child of the Depression, but organized labor had been pressing for this type of construction wage support statute for some time. Some states, New York and Kansas for example, had construction wage-related laws on their books in the previous century. And what was then the House Labor Committee held hearings and reported a Davis-Bacon-type bill in the boom years of 1927 and 1928. However, the Great Depression provided Davis-Bacon proponents with the circumstances they needed to justify its enactment.

In the early '30s, the nation's Gross National Product was tumbling, while its overall unemployment rate was climbing. The construction industry's plight mirrored the state of the overall economy. In 1929, America's new construction volume was $11 billion – by 1933, it had fallen below $3 billion, a post-World War I low. During the same period, construction employment fell from 1.5 million to just over 800,000. Reflecting the severe competition that developed for these jobs, earnings also dropped sharply. By 1933, average annual earnings for all the construction trades totaled $869, about 50 percent of their level only five years earlier.

NEW HOME COST—$741



Davis-Bacon adds $741 to the cost of the average American home.

Upturns and downturns in construction starts usually signal a corresponding move by the nation's economy as a whole. Therefore, the federal government decided that stimulating construction would help pull America out of the Depression. In 1926, only 18 percent of all construction was federally assisted. Eight years later, the public sector accounted for almost 60 percent of America's construction volume, a level that was to remain relatively stable until the end of World War II.

It was in this economic context that Congress passed the 300-word Davis-Bacon Act. Its aim — to prevent itinerant labor from undercutting local wage rates. To achieve this, under the Davis-Bacon Act and the 1935 amendments to it, Congress required the Secretary of Labor to set a "prevailing" minimum wage for employees of all trades working on federally funded construction projects of over $2000. In 1964, the act was amended so that "wage" would include fringe benefits such as health care, vacations, and pensions. The "prevailing" rate was intended by Congress to be the average wage paid to each trade on private "projects of a character similar to [the federal] contract work in the city, town, village or other civil subdivision" where the public project was to be located. Major problems that arose from this ambiguous statute, and that remain today, are: just what is "prevailing," what is "a character similar," and what is the immediate "city, town . . ."?

HOW HAS DAVIS-BACON BEEN ADMINISTERED?

"After nearly 50 years, [the Department of] Labor has not developed an effective program to issue and maintain current and accurate wage determinations, and it may be impractical to ever do so." This indictment in the General Accounting Office report was a key factor in its recommending Davis-Bacon repeal. Incorrect wage determinations, project classifications and other Labor Department administrative practices are costing America's taxpayers billions of dollars annually. And, in part due to them, Davis-Bacon is spurring inflation. Briefly, here's how.

Davis-Bacon "adds fuel to the inflationary fires of the economy, . . . benefits few at the expense of many, and . . . either should be repealed or drastically amended."

—1975 Wharton School, University of Pennsylvania, Study

"PREVAILING" WAGES — First, it seems obvious that a true "prevailing" wage for each construction trade should take into account the wages actually being paid to *all workers* of that craft on *truly similar* projects in the *immediate* area. However, this is not the case under Davis-Bacon today. The Labor Department has devised a complex and arcane formula to determine which rates "prevail." Often, these rates *do not reflect local wage rates at all.* The Labor Department determines the prevailing wage and fringe benefit rate for a craft to be the *exact, to-the-penny rate paid to the majority* [50 percent] of the craftsmen doing "similar" work in the "immediate" area.

If *no* to-the-penny wage-fringe benefit rate is being paid to a majority of workers, the Labor Department then deems the to-the-penny-amount paid to the *greatest number* of workers to be "prevailing," **provided** *that "number" is at least 30 percent of area craftsmen.* This is the so-called "30 percent rule." Deputy Comptroller General Robert F. Keller has commented, "If Congress wants the 30 percent rule, they ought to write it into law, because 30 percent isn't prevailing."

Wages on federal construction projects are "so rigged at what are clearly non-competitive levels... the only solution is to open up the forces of competition by eliminating this artificial wage-support legislation."

—Former Council of Economic Advisers Chairman Alan Greenspan

Believe it or not, only when *no single wage-benefit rate* is being paid to *at least* 30 percent of an area's workers, does the Labor Department calculate the *weighted average* of *all* the wages of workers doing similar work in the locality, and determine that amount to be the prevailing rate.

In practice, this scheme for making wage determinations very frequently results in the area's collectively bargained rate becoming its "prevailing" rate — even in areas where *as much as 70 percent of similar private construction is being done by a non-AFL-CIO affiliated union or by open shop employees.*

Nobel Prize-winning economist Milton Friedman, points out that "the construction unions [now] get a large part of their monopoly power from the Davis-Bacon Act . . By some strange coincidence, the 'prevailing' wage specified by the Department of Labor almost always turns out to be the highest union wage *within a very large geographic area around the place in question.*"

ARBITRARY BOUNDARIES — One example of the Labor Department stretching the boundaries of an immediate jurisdiction is a federally funded public-housing project in Vermont, near the New York state border. When the contract for this project was awarded, roofers on similar non-government work in the area were averaging about $4 an hour. But the Labor Department set their "prevailing" rate at $9.25 an hour. On the same project, the "prevailing" rate for electricians was determined to be $8.25 an hour when, in reality, local electricians on similar private work were averaging about $6 an hour. Where did these inflated rates really "prevail?" In far-more-unionized Albany, New York — 125 miles away! The higher Davis-Bacon rates for this project increased its cost to the public by an estimated $36,000 to $82,000.

Another example of this type of costly misdetermination is cited in the GAO report. One of the projects examined by GAO was a chlorine room addition to the water treatment plant in the city of Dickson, Tennessee. When determining the rates for this small project, the Labor Department *did not* survey wages in Dickson County. Instead, it deemed "prevailing" the wage rates collectively bargained *five years earlier* in Nashville — a non-contiguous county over 50 miles away.

The effect: Laborers, who locally were being paid $4.25 an hour, had to be paid $8.75; area plumbers, who had been making $4.50, had to be paid $8.94. GAO estimated that the project's cost was inflated 6.3 percent by Davis-Bacon.

"The act is inflationary, because it results in federal and federally assisted construction costing more than other contracts."

—1976 Library of Congress Congressional Research Service Study

In all, the GAO report evaluated 73 Labor Department wage determinations and found that, "in many instances, wage rates were not adequately or accurately determined." GAO found that *about one-half of the determinations made on those projects were not based on surveys of wages actually paid to workers in the area, but upon union-negotiated rates.*

GAO also found that when surveys *were made,* the data gathering and compilation practices varied among Labor Department regional offices, and headquarters in Washington, D.C.

Summing up, GAO concluded that the Labor Department's methods for developing and issuing wage rate determinations "provide no assurance that the rates stipulated actually prevail for corresponding classes of workers on similar private construction projects in the locality."

Late in 1977, then-Federal Reserve Board Chairman Arthur Burns also concluded that about 50 percent of all Davis-Bacon rates are union, rather than prevailing area rates. Reaching the same conclusion as GAO, Burns said, "It is my intention to use such influence as I have to encourage repeal of this act."

DOL PRACTICES THWART CONGRESS' INTENT – Harold Tripp, whose Culpsville, Virginia construction company specializes in laying pipelines, was recently quoted in *Barron's* as saying, "When we do private work, we can get common labor for $6 an hour; operators of loaders and bulldozers for $10 an hour. On Davis-Bacon jobs, the rates determined by the Labor Department in my area are $10.05 for common labor, and $13.85 for dozer and loader operators."

This type of inflationary "fringe benefit" also results in Davis-Bacon having the opposite effect that Congress intended the act to have. Congress intended to encourage local contractors who employ local labor to bid on local public projects. Tripp explains that he can't go back to paying truly prevailing wages on private projects in his area once he pays the same men higher Davis-Bacon "prevailing" wages for identical work on a public project.

Tripp's feelings are echoed by a Rockville, Maryland contractor. Carl Miller of Concrete General, Inc. says, "If [Davis-Bacon] rates are out of line, I don't bid. As a result, I've thrown away about a third of the jobs that come across my desk." Also, this is an important inflationary side effect of Davis-Bacon. Less competition equals higher construction prices.

ARCHAIC WORK CLASSIFICATION – Labor Department Davis-Bacon misadministration is not limited solely to erroneous wage determinations. It extends to classification of workers and projects. The Department generally uses the outdated trade definitions and craft jurisdictions still used by the building trades unions. For example, if a laborer picks up one of the tools of the trade – say a saw – he then becomes a carpenter. *And he must be paid the generally much higher carpenter's rate* while he is using the saw, *no matter how simple and unskilled a task he may be performing* with it. Thus, the taxpayer is denied the cost-saving

DAVIS-BACON ADDS TO AMERICANS' TAX BURDEN

State-by-state, Davis-Bacon repeal would mean a $ (see key below) decrease in the annual tax bill of the average household.

$ 30-40

$ 40-45

$ 45-50

$ 50-55

over $ 55

flexibility contractors now prefer to use to save their private construction clients time and money.

In addition, this practice takes away from many construction workers the opportunity to increase their earning power by expanding their skills. The Labor Department also restricts the employment of helpers and trainees on Davis-Bacon construction projects, requiring many of them to be paid a full journeyman's rate; thereby, making their employment economically unfeasible.

Both Arthur Burns and Walter Williams, a noted economist at Temple University, have charged that such restrictions are particularly detrimental to the hard-core unemployed. This is also true for minorities and women, who are now attempting to enter the construction industry in much greater numbers than ever before.

ARBITRARY PROJECT CLASSIFICATIONS – An area in which the Davis-Bacon bureaucracy has proven especially costly in recent years is in the determination of whether work must be done at "residential," "heavy," "highway," or "building" construction rates. As the General Accounting Office now reports, such Labor Department classifications often ignore traditional area practices and the size and complexity of the construction involved.

On a 6.1-mile bridge project in Mobile and Baldwin counties in Alabama, the Labor Department tried to impose higher "heavy" construction rates on an 800-foot section of the bridge, even though every similar bridge in the state had been built at "highway" rates.

On airport projects in Atlanta and in Norfolk, Virginia, the Labor Department arbitrarily attempted to classify taxiways as "heavy" construction, again at higher wage rates. Fortunately, in these cases the determinations were overturned by the three-member Davis-Bacon Wage Appeals Board, a body established by Executive Order in 1964 which has no statutory authority and whose members serve at the pleasure of the Secretary of Labor.

Ex-Kansas Governor Robert Bennett has said that, even without arbitrary project classification determinations, he estimates *Davis-Bacon will add 38 percent to highway costs* in his state during the next five years.

"The Act is anachronistic, obsolete and inflationary. It has undesirable consequences for almost everyone except, perhaps, unionized construction labor."

—University of Maryland Professor Armand J. Thieblot, Jr.

Perhaps the most infamous recent project classification decision came on a 1.6-mile section of Interstate 66 in Fairfax County, Virginia. In the spring of 1977, the Virginia State Highway Department asked for bids on this project, expecting that workers would be paid "highway" wages. Initially, the Labor Department concurred. But just before contracts for the project were awarded, the Labor Department waffled, ruling that much higher "heavy" construction rates would have to be paid for work on the highway's median strip.

This meant that laborers working on the highway would earn $4.50 an hour; on the median, $9.66. Operating engineers would earn $5 an hour for their highway work; $11.49 while working on the median. In all, this arbitrary Labor Department decision would have doubled the cost of the median construction from $4 million, to $8 million.

Why did the Labor Department "carve out" median strip work on this project and set "heavy" rates for it? The Department felt that some time in the future the median *might* be used for an extension of the Washington, D.C. Metro rail system. The state of Virginia was joined by the Department of Transportation in its appeal of this classification. A DOT official said that "if allowed to stand, the determination applying heavy rates to highway work could set a precedent for future Davis-Bacon determinations that would send highway rates spiraling, and result in millions of dollars of excessive costs to federal and state governments – and ultimately to the taxpayer."

One of the appendices to the draft General Accounting Office report demonstrates the Davis-Bacon Act's effect on competition and construction costs when the Labor Department sets "prevailing" wage rates that either are higher or lower than the rates that truly prevail in a project area.

One instance when the Labor Department set rates that were too high is a just over half-a-million-dollar contract for re-grading, paving and drainage work on an existing highway in Otsego County, New York. The rates issued for this project by DOL were the area's union-negotiated rates. GAO surveyed the area's open shop employers to determine the true prevailing rate for each of the nine classifications of workers on the project. With one exception, DOL's "prevailing" rate was substantially higher.

Classification	DOL hourly rate issued	Prevailing hourly rate in locality	Excess hourly cost per employee
Asphalt raker	$ 8.99	$ 5.49	$3.50
Backhoe operator	10.70	5.87	4.83
Bulldozer operator	10.40	4.75	5.65
Carpenter	11.25	7.85	3.40
Cement Mason	9.70	11.71	(2.01)
Laborer	8.59	3.48	5.11
Paver Operator	10.70	6.58	4.12
Roller Operator	10.40	4.50	5.90
Truck Driver	8.44	5.72	2.72

The low bidder for this job was from another county some 70 miles away, and paid the Davis-Bacon rates to employees. GAO feels this inflated the cost of the project by about eight percent.

Another "typical" instance where Labor Department-issued rates were too high involved two exterior painting contracts at the Lemoore, California, Naval Air Station. They totaled about a quarter-of-a-million dollars. A Labor Department survey of area painters' rates considered only *two* contractors. DOL issued a "prevailing" rate of $8.80 an hour. In contrast, GAO determined the area prevailing rate for painters was $7.27 an hour, $1.53 less per hour.

For the laborers required for this project, the Labor Department set a minimum rate of $3.50 an hour, $.69 less than the $4.19 an hour rate found to prevail by GAO. Despite the fact that the Davis-Bacon rates were low for one trade and high for the other, GAO estimated they increased the cost of the project by about four percent.

The successful bidders on these contracts, both of whom paid their workers the Labor Department-set rate, were from Los Angeles and San Francisco, 200 and 180 miles away, respectively. Each employed some local labor, but GAO found that most employees came from the contractors' home cities, as well as from Arizona, Nevada, and "even some from New York."

In contrast is an interior painting, and floor and stair refinishing contract in a family quarters at Fort Monmouth, New Jersey. The government estimate for the project, based on a Labor Department-determined "prevailing" wage rate for painters of $5.00 an hour, was just over $100,000. However, this determination was based on five- or six-year old wage surveys. At the time of construction, the prevailing wage in the county for painters actually was $6.11 an hour.

The two lowest bidders on the job were from the Fort Monmouth area – the low bidder's firm was located only 15 miles from the base. The highest bidders were from New York City, about 60 miles away. The prime contractor, who did the painting work and subcontracted the rest, paid his employees, local men, his usual $8.55 an hour. The contractor felt that he could not lower their wages to the "prevailing" rate, because he feared his workers would leave him for another area contractor. This example bears out the GAO conclusion that "the Davis-Bacon Act's intent – to maintain the local prevailing wage structure – is carried out only when the [Labor Department] administration of the act has no effect."

RECORDKEEPING BURDENS AND COSTS – Another Davis-Bacon problem, and a sizeable and costly one, is recordkeeping. Once work on a Davis-Bacon project is underway, the project's general contractor is required to post wage rates for each trade at the jobsite, and pay his employees no less than those wages. This seems reasonable. But the contractor also must fill out detailed payroll record forms, send a certified copy of them to the project's contracting officer weekly, and keep another copy of those payroll records for three years after the project is completed. This is burdensome – and costly.

"Unusual and quixotic as it may seem, and contrary to the spirit of the laws requiring the award of government business to the lowest bidders, the federal government does not seek the lowest bids available on its construction projects."

—University of Chicago Economist Yale Brozen

Davis-Bacon sends 86,500 Americans a year to the unemployment office.

In addition, the general contractor is required to see to it that his subcontractors meet Davis-Bacon requirements and, after certifying that they do, to also pass a copy of their weekly payroll records on to the contracting officer. This results in additional costs to contractors and, ultimately, to the public – about one-half percent of the value of each Davis-Bacon contract, according to an Associated General Contractors survey of its members.

The Davis-Bacon reporting requirement cost is two-fold – The taxpayer must also pay someone in the federal bureaucracy to read or, *worse yet, not to read the contractors' weekly submissions.* On a Davis-Bacon project in Florida, a contractor inadvertently employed more apprentices than he was permitted. Had his payroll reports actually been read, this error would have been obvious immediately. However, *it went unnoticed for more than a year.* The GAO report "conservatively" estimates that the Davis-Bacon's administrative cost to the Labor Department and federal awarding agencies is $15 million annually.

WHAT PRICE TAG DOES DAVIS-BACON CARRY?

Estimates of Davis-Bacon's total adverse economic impact ranges from $715 million to over $6 billion annually, depending on the type and location of the construction taken into account. But they are unanimous in concluding that the 18,000-odd wage determinations now issued by the Labor Department annually under Davis-Bacon, covering public construction rang-

ing from highways to health care facilities, are a tremendous burden to the taxpayer. Why? *Davis-Bacon artificially inflates already high construction costs.*

A 1971 General Accounting Office report on the impact of Davis-Bacon on what were primarily eastern and southeastern projects concluded that the act inflated construction costs by 5 to 15 percent. The 1978 GAO report is based on a study of projects nationwide of varying size and construction type. On some of these projects, the Labor Department set prevailing wages that GAO felt were too low. It was in these cases and only these cases, GAO said, that wage rates *actually paid* by the contractor were the wages *actually prevailing* in the area. "Thus, the act's intent – to maintain the local prevailing wage structure – is carried out only when the administration of the act has no effect," GAO reported.

On projects where GAO found that the Labor Department set wage rates that were *too high,* contractors paid the Davis-Bacon rate and construction costs were increased by up to eight percent; an average of 3.3 percent. If we extrapolate this to all of the 20 percent of the nation's construction volume now covered by Davis-Bacon, *the unnecessary cost to the taxpayer is some $715 million a year.* In addition to the direct cost of Davis-Bacon misdeterminations, the GAO report pegged the total public and private administrative costs mentioned earlier at about $215 million a year.

Worst of all, the Davis-Bacon Act also has a "spillover" inflationary impact on local construction wages paid on private work. In the tough competition for skilled craftsmen, contractors on private work must pay wages "competitive" with inflated Davis-Bacon wages. This private sector cost of Davis-Bacon is estimated by the Economic Policy Center of the U.S Chamber of Commerce at $1.8 billion a year.

This brings Davis-Bacon's inflationary annual price tag to $2.8 billion. Therefore, repeal of this now-unnecessary statute is imperative at this time! Many voice this sentiment. The Commission on Government Procurement concluded that Davis-Bacon was no longer needed to protect construction labor, and that, even when perfectly administered, the prevailing wage concept is inflationary. This group recommended repeal.

A 1975 study of the act made by the University of Pennsylvania's Wharton School concluded" that Davis-Bacon adds fuel to the inflationary fires of the economy, that it benefits few at the expense of many, and that it either should be repealed or drastically amended." Wharton's "conservative" assessment of the act's inflationary cost on public work – between $240 and $567 million a year; its "higher figures" – as much as $1.5 billion annually.

In 1978, the Congressional Research Service of the Library of Congress issued a qualitative study of the pro's and con's of Davis-Bacon. Commenting on its inflationary impact, the report simply said "the act is inflationary because it results in federal and federally assisted construction costing more than other contracts."

The New York Times
December 27, 1978

Making Federal Construction Expensive

Even as Alfred Kahn, the White House inflation fighter, pleads for wage moderation from unions, Labor Department officials are policing the earnings of workers on Federal construction projects, lest unskilled laborers willing to accept $4.50 an hour get less than $9.50, or pipelayers happy to take home $8 are paid less than $10.

The source of this bizarre contradiction is the Davis-Bacon Act, which requires Federal construction wages to match local "prevailing" rates. According to a new report by the General Accounting Office, the law costs the taxpayers about $715 million annually and serves no useful purpose.

The Davis-Bacon Act was passed at the nadir of the Depression to protect local construction workers from outside competitors willing to slave for peanuts. Whatever the merits of the act at the time, there is no justification for such interference with private markets today. In 1977, the Labor Department made "prevailing wage" determinations for more than 15,000 federally funded projects. According to the G.A.O.'s reckoning, the department guessed high on about 40 percent of the projects, increasing wages by $500 million and adding another $215 million in administrative costs to the Federal Government's expenditures for construction.

The inflationary impact of the regulations may in fact have been much greater. By forcing contractors to pay premium wages on Federal jobs, the Government made it difficult for those same contractors to pay their crews less on private construction. Industry leaders guess that the law may raise costs in the $170-billion construction industry by more than 10 percent.

Since the only effect of the Davis-Bacon Act is to provide a bonus for some construction workers at the public's expense, the best possible reform would be to erase it from the books. That, unfortunately, would be extraordinarily difficult; not surprisingly, organized labor bitterly opposes repeal since the law reduces the incentive of contractors to hire nonunion workers.

An alternative is to amend the act and require the Labor Department to justify its estimates and provide a speedy appeals process. As the courts now interpret the statute, department decisions, however arbitrary, cannot be challenged. If all legislative initiatives fail, one remedy remains: the President can demand that Federal administrators bend over backward to reduce the inflationary impact of this harmful measure.

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WHAT ACTION IS NEEDED?

There is no question that Davis-Bacon is not now having the effect on construction wages intended by Congress in 1931. Its present long-term impact on stabilizing local wage structure is minimal, or even negative. On the other hand, *its inflationary impact is significant – $2.8 billion a year.* The Labor Department's record has proven the act is difficult, if not impossible, to administer. And it is almost equally difficult to comply with.

We believe, as GAO now does, that, *"Improving the adminstration and enforcement of Davis-Bacon wage determination procedures may slightly lessen, but not eliminate, the inflationary impact of the act. . . . Only the repeal of the Davis-Bacon Act will return the determination of labor costs on federally funded construction projects to the efficiencies of the freely competitive marketplace."*

If you are concerned about the shrinking purchasing power of your dollar, and if you believe that wasteful government spending is a major cause of inflation, we urge you to do all you can to erase the Davis-Bacon Act from the books.

DAVIS-BACON REPEAL: What Does It Mean To A Typical American

(Level Changes in Percent or Constant 79 $)

	Lower Inflation					More Employment		More Spendable Income		Lower Federal Taxes	
	Lower Prices		More Purchasing Power		Lower Cost of New Homes						
	Low Estimate	High Estimate	Low Estimate	High Estimate		Low Estimate	High Estimate	Low Estimate	High Estimate	Low Estimate	High Estimate
	(%)	(%)	($ Per Household)	($ Per Household)	($ Per House)	(Jobs)	(Jobs)	($ Per Household)	($ Per Household)	($ Per Household)	($ Per Household)
UNITED STATES	-0.1	-0.3	31	92	-741	23,000	150,000	10	50	-15	-80
Alabama	-0.1	-0.2	19	56	-557	384	2,312	8	39	-12	-63
Alaska	-0.2	-0.5	82	247	-970	42	275	16	82	-25	-131
Arizona	-0.1	-0.3	27	80	-732	280	1,826	9	47	-14	-75
Arkansas	-0.1	-0.2	18	55	-683	221	1,439	8	39	-12	-62
California	-0.1	-0.3	37	111	-887	2,390	16,585	11	55	-16	-88
Colorado	-0.1	-0.3	32	96	-879	336	2,194	10	51	-15	-81
Connecticut	-0.1	-0.3	42	125	-767	319	2,080	12	58	-17	-93
Delaware	-0.1	-0.3	42	125	-590	65	427	12	58	-17	-93
District of Columbia	-0.1	-0.4	52	157	-691	178	1,160	13	65	-20	-104
Florida	-0.1	-0.3	27	81	-668	1,005	6,554	9	47	-14	-75
Georgia	-0.1	-0.3	25	74	-611	575	3,747	9	45	-13	-72
Hawaii	-0.1	-0.4	52	155	-709	95	617	13	65	-19	-104
Idaho	-0.1	-0.3	23	70	-671	91	592	9	44	-13	-70
Illinois	-0.1	-0.4	42	127	-863	1,116	7,275	12	59	-18	-94
Indiana	-0.1	-0.3	26	79	-887	567	3,699	9	46	-14	-74
Iowa	-0.1	-0.3	31	93	-751	321	2,091	10	50	-15	-80
Kansas	-0.1	-0.3	32	96	-828	253	1,648	10	51	-15	-82
Kentucky	-0.1	-0.2	19	58	-674	344	2,241	8	40	-12	-63
Louisiana	-0.1	-0.3	24	71	-688	371	2,423	9	44	-13	-70
Maine	-0.1	-0.2	19	58	-496	104	680	8	40	-12	-63
Maryland	-0.1	-0.3	39	118	-683	438	2,858	11	57	-17	-90
Massachusetts	-0.1	-0.3	35	105	-644	570	3,717	11	53	-16	-85
Michigan	-0.1	-0.3	27	82	-750	907	5,914	9	47	-14	-76
Minnesota	-0.1	-0.3	32	95	-802	443	2,889	10	51	-15	-81
Mississippi	-0.1	-0.2	16	49	-584	242	1,576	7	36	-11	-58
Missouri	-0.1	-0.3	27	81	-660	504	3,286	9	47	-14	-75
Montana	-0.1	-0.3	25	74	-620	80	520	9	45	-13	-72
Nebraska	-0.1	-0.3	36	106	-992	184	1,197	11	53	-16	-85
Nevada	-0.1	-0.3	35	104	-854	87	565	11	53	-16	-85
New Hampshire	-0.1	-0.3	25	76	-579	92	598	9	46	-14	-73
New Jersey	-0.1	-0.3	41	122	-756	730	4,760	11	57	-17	-92
New Mexico	-0.1	-0.2	18	53	-742	125	814	8	38	-11	-60
New York	-0.1	-0.3	38	113	-628	1,677	10,939	11	55	-17	-89
North Carolina	-0.1	-0.2	21	62	-641	646	4,215	8	41	-12	-65
North Dakota	-0.1	-0.3	34	102	-841	70	455	11	53	-16	-84
Ohio	-0.1	-0.3	22	67	-833	1,134	7,399	9	43	-13	-68
Oklahoma	-0.1	-0.3	22	67	-777	292	1,902	9	43	-13	-68
Oregon	-0.1	-0.3	26	78	-728	274	1,790	9	46	-14	-73
Pennsylvania	-0.1	-0.3	30	89	-683	1,164	7,589	10	49	-15	-79
Rhode Island	-0.1	-0.3	31	93	-611	92	601	10	50	-15	-80
South Carolina	-0.1	-0.2	20	61	-657	318	2,071	8	41	-12	-65
South Dakota	-0.1	-0.3	24	72	-705	78	506	9	44	-13	-70
Tennessee	-0.1	-0.2	20	60	-620	513	3,343	8	40	-12	-64
Texas	-0.1	-0.3	29	88	-753	1,484	9,550	10	49	-15	-78
Utah	-0.1	-0.4	45	134	-729	147	956	12	60	-18	-97
Vermont	-0.1	-0.3	22	66	-663	46	300	8	42	-13	-68
Virginia	-0.1	-0.3	33	99	-682	594	3,875	10	52	-16	-83
Washington	-0.1	-0.3	33	99	-760	349	2,274	10	52	-15	-83
West Virginia	-0.1	-0.2	20	59	-658	162	1,055	8	40	-12	-64
Wisconsin	-0.1	-0.3	31	93	-767	504	3,285	10	50	-15	-80
Wyoming	-0.1	-0.3	30	91	-724	52	336	10	50	-15	-80

Source: U.S. Chamber of Commerce, Forecast and Survey Center. Low estimates of savings were calculated from data in a 1979 draft General Accounting Office report on the Davis Bacon Act; high estimates were calculated from data in a 1971 GAO study titled "Need For Improved Administration of the Davis-Bacon Act Noted Over A Decade of General Accounting Office Reviews". Other data from Current Wage Developments (U.S. Department of Labor) and The Davis Bacon Act (Armand J. Thieblot, Jr., University of Pennsylvania, 1975).

Senator NICKLES. Mr. Downey?
Mr. DOWNEY. Thank you, Senator.

STATEMENT OF JOHN DOWNEY, PRESIDENT AND OWNER, BUILDEX DESIGN, INC., ALEXANDRIA, VA.

Mr. DOWNEY. I'm president and owner of Buildex Design, a small Virginia general contracting company out of Alexandria. We're licensed in Maryland, District of Columbia, and Virginia.

Last Saturday I received a request from you to testify on "how the Davis-Bacon threshold impacts small construction firms and their employees." I do not profess to be an expert on the repeal of the Davis-Bacon Act. However, I consider myself a pseudo-expert on its impact on the small contractor.

To attack this Davis-Bacon threshold versus the small contractor, I have developed two issues. The first, identifying the small contractor population that is controlled by the Davis-Bacon threshold; and, second, in identifying the resulting impact to that small contractor population as a result of the impact of Davis-Bacon.

To identify the small contractor population involved, I have used the same figures that were used just previously, fiscal year 1981 Federal construction procurement dollars prepared in a special study by the Office of Management and Budget. I don't think these are published yet.

I have applied these dollars in developing two models and those models are attached to my testimony. I have copies here that relate to some comments that I have. I'll try to talk around them, but they'll be entered into the record, I assume.

Senator NICKLES. OK.

Mr. DOWNEY. The first model compares the contract dollar size with the number of contracts let for Federal construction in 1981. Of the total 7,900 contracts that were involved in this model that were let in 1981, I have arbitrarily established two thresholds to see the impact or the sensitivity. One of them is at a $500,000 contract level, and the other at a $1 million contract level.

At the $1 million contract level, 7,100 of the contracts let fell below that point, or 90 percent of all the contracts in 1981. Ten percent fell above that, and, of interest, the small contractor which fell below the $1 million threshold averaged $138,000 per contract, while the large contractor above the $1 million threshold averaged 46 times the small contract size, or $6.5 million.

This highlights the fact that the large number of Davis-Bacon labor dollars which influence a local area are controlled by the large contractor above the $1 million threshold.

In the model 2, I've shown that by increasing the Davis-Bacon threshold to the $1 million point—from $2,000—90 percent of the Federal contracts let in 1981 would be relieved of the Davis-Bacon control, while 85 percent of the labor dollars would be still under the control of large contractors and Davis-Bacon.

What's the impact? I'd like to direct our attention now to the impact the Davis-Bacon threshold has on the small contractor.

In one of the models, I identify that the small contractor characteristic traits are involved, and also identify the characteristic traits of the large contractor. This average group pretty well fits

the model that is so well defined in the Small Business Administration's management series publications.

Of these small contractors, 50 percent will fail in 2 years, 60 percent will fail in 4 years, and 80 percent will fail before the 10th year of longevity.

The group is made up of four to six wage earners, and is usually bent on survival. There is minimal interest in how much the Federal Government is overpaying because of Davis-Bacon. They're on a survival plane.

The small contractor strives to hire laborers close to his office and to the job site, so that he can get them to work on Monday morning. The small contractor strives to find enough work to keep his employees and suppliers paid on Friday, and seldom has any slush fund in the bank. It is a very demanding management challenge involving basic cash flow and human resources.

What happens when this stabilized small world scenario is shocked with an interim period of inflated wages dictated by Davis-Bacon?

Let's first look at the stabilized construction contractor. The contractor may not know how a Davis-Bacon Act applies to a contract or may not understand the bidding criterion based on classification or lack thereof.

The small contractor may not understand the increased weekly administration load necessary to comply with accounting of wages for Davis-Bacon.

The laborers are acclimated at their established wage rate, which is a constant, and their life style is adjusted to that wage rate.

As the laborer stays on and becomes more valuable to the employer, the pay is gradually increased, which satisfies his security and ego needs. Let's assume he makes $4 an hour. Because of the stabilized wage, his pay is dependable, because the employer can bid competitively.

Now let's examine what the impact is when the exaggerated wage is increased.

First, the contract or subcontractor may bid too low. Sometimes the Davis-Bacon requirements are not spelled out in the request for bid, as shown in attachment 6. I show there that in late 1977, Henrico County, Va., awarded a $3.5 million contract that was later increased by $517,000, or a 15-percent increase, and this was after 18 months of construction progress. This increase was absorbed by the county and the contractors, but the real cost, which I'll show in just a moment, to the contractor was in excess of $750,000.

The other impact, the laborer's wages are artificially increased from $4 to $6, and he works at that wage for two months. His ego and his family are impressed that his worth to the company has suddenly increased by 50 percent, and both adjust psychologically and financially. After two months, the wages are reduced back to $4 per hour, and the laborer quits because he believes he is worth $6 an hour. He will go on unemployment, looking for a $6 an hour employer.

In addition, the dollar impact on the $2 raise may yet put the contractor out of business because many parasitic functions equate directly to the wage scale: FICA, workmen's compensation, unemployment insurance, Federal unemployment tax, and fringe bene-

fits. All of these things may very well represent an additional increase of 50 percent to each dollar wage increase.

Buildex Design was involved in a contract 7 months ago and a subcontractor, Woodbridge Insulation, was forced to increase an $8,000 labor wage by $4,000 to accommodate Davis-Bacon. In addition to that, they had to eat a $2,000 increase that was imposed for wages for work that had already been accomplished and was not paid at the Davis-Bacon rate.

It cost the Alexandria school system an unnecessary $4,000, Woodbridge Insulation lost its employees, and the final parasite taxes may yet put Woodbridge out of business. The impact of exaggerated wage inflation has put the employees on unemployment, reduced the capacity of the employers' work force, and cost him hidden dollars for parasite functions that may not show up until the end of his fiscal year.

In summary, the U.S. economics are based on small business free enterprise, and this is being thwarted by the existing $2,000 Davis-Bacon threshold that was established in 1935.

I've shown three things here:

That by increasing the Davis-Bacon threshold from $2,000 to $1 million, we relieve 90 percent of the construction contracts awarded;

No. 2, we've given this small business contractor some more chance of survival; and

No. 3, and very important, the Department of Labor will reduce the amount of work engendered to comply with those 90 percent contracts that have been moved out, and they can concentrate on the 10 percent which really contracts the Davis-Bacon dollars.

Thank you.

Senator NICKLES. Thank you, Mr. Downey. We appreciate it.

[The prepared statement of Mr. Downey follows:]

INTRODUCTION

MR. CHAIRMAN, I AM JACK DOWNEY, PRESIDENT OF BUILDEX DESIGN, INC., A SMALL VIRGINIA GENERAL CONTRACTING FIRM THAT IS LICENSED IN VA., D.C., AND MD. LAST THURSDAY, I RECEIVED A REQUEST FROM CHAIRMAN NICKLES TO TESTIFY ON "HOW THE DAVIS-BACON THRESHOLD IMPACTS SMALL CONTRUCTION FIRMS AND THEIR EMPLOYEES." I DO NOT PROFESS TO BE AN EXPERT ON THE REPEAL OF THE DAVIS-BACON ACT; HOWEVER, I CONSIDER MYSELF A PSEUDO EXPERT ON ITS IMPACT ON THE SMALL CONTRACTOR. TO ATTACK THE DAVIS-BACON THRESHOLD VS THE SMALL CONTRACTOR, I HAVE DEVELOPED TWO ISSUES; THE FIRST ------ IDENTIFYING THE SMALL CONTRACTOR POPULATION THAT IS IMPACTED BY THE DAVIS-BACON THRESHOLD, AND SECOND ------ IDENTIFYING THE RESULTING IMPACT TO THAT SMALL CONTRACTOR POPULATION.

TO IDENTIFY THE SMALL CONTRACTOR POPULATION INVOLVED IN ADJUSTMENT OF THE THRESHOLD I HAVE USED FY 1981 FEDERAL CONSTRUCTION PROCUREMENT DOLLARS PREPARED IN A SPECIAL STUDY BY THE OFFICE OF MANAGEMENT AND BUDGET. (SEE ATTACHMENT #1) I HAVE APPLIED THESE DOLLARS IN DEVELOPING TWO MODELS WHICH YOU HAVE ATTACHED TO YOUR TESTIMONY, AS ATTACHMENTS 2 & 3. ATTACHMENT TWO COMPARES THE CONTRACT DOLLAR SIZE WITH THE NUMBER OF CONTRACTS LET FOR FEDERAL CONSTRUCTION IN 1981.

OF THE TOTAL 7900 CONTRACTS LET IN FY 1981, 7100 FELL BELOW THE 1 MILLION DOLLAR THRESHOLD WHILE 822 FELL ABOVE THE 1 MILLION DOLLAR THRESHOLD. ALSO OF INTEREST, THE SMALL CONTRACTOR BELOW THE $1 MILLION DOLLAR THRESHOLD, AVERAGED $138,000 PER CONTRACT WHILE THE LARGE CONTRACTOR ABOVE THE 1 MILLION DOLLAR THRESHOLD AVERAGED 46 TIMES THE SMALL CONTRACT SIZE, OR $6,449,000. THIS HIGHLIGHTS THE FACT THAT THE LARGE NUMBER OF DAVIS-BACON LABOR DOLLARS WHICH INFLUENCE A LOCAL AREA ARE CONTROLLED BY THE LARGE CONTRACTOR ABOVE THE 1 MILLION DOLLAR THRESHOLD.

THE MODEL SHOWN IN ATTACHMENT 3, SHOWS THAT BY INCREASING THE DAVIS-BACON THRESHOLD TO EXEMPT CONTRACTS BELOW $1 MILLION, 90% OF THE FEDERAL CONTRACTS LET IN 1981 WOULD BE RELIEVED OF THE DAVIS-BACON CONTROL, WHILE 85% OF THE LABOR DOLLARS OR FORCES WOULD REMAIN UNDER DAVIS-BACON INFLUENCE.

I WOULD NOW LIKE TO DIRECT YOUR ATTENTION TO THE IMPACT THE DAVIS-BACON THRESHOLD HAS ON THE SMALL CONTRACTOR. THE ATTACHMENT 2 MODEL IDENTIFIES THE "SMALL CONTRACTOR CHARACTERISTIC TRAITS FOR THE POPULATION WORKING LESS THAN THE $1 MILLION CONTRACT THRESHOLD." THIS AVERAGE GROUP PRETTY WELL FITS THE MODEL THAT IS SO WELL DEFINED IN THE SMALL BUSINESS ADMINISTRATION'S MANAGEMENT SERIES PUBLICATIONS.

50% WILL FAIL WITHIN 2 YEARS, 60% WILL FAIL WITHIN 4 YEARS AND 80% WILL FAIL BEFORE THE TENTH YEAR OF LONGEVITY. THE GROUP IS MADE UP OF 4-6 WAGE EARNERS AND IS USUALLY BENT ON SURVIVAL. (SEE ATTACHMENTS 4 & 5).

THERE IS MINIMAL INTEREST IN "HOW MUCH THE FEDERAL GOVERNMENT IS OVERPAYING BECAUSE OF DAVIS-BACON." THE SMALL CONTRACTOR STRIVES TO HIRE LABORERS CLOSE TO HIS OFFICE AREA OR JOB SITE SO THAT HE CAN GET THEM TO WORK ON MONDAY MORNING. THE SMALL CONTRACTOR STRIVES TO FIND ENOUGH WORK TO KEEP HIS EMPLOYEES AND SUPPLIERS PAID ON FRIDAY AND SELDOM HAS ANY SLUSH FUND IN THE BANK. IT IS A VERY DEMANDING MANAGEMENT CHALLENGE INVOLVING BASIC CASH FLOW AND HUMAN RESOURCES. WHAT HAPPENS WHEN THIS STABILIZED SMALL WORLD SCENARIO IS SHOCKED WITH AN INTERIM PERIOD OF INFLATED WAGES DICTATED BY A DAVIS-BACON ACT CONTRACT?

FIRST LETS LOOK AT A STABILIZED CONSTRUCTION CONTRACTOR'S POSTURE:

1. THE CONTRACTOR MAY NOT KNOW HOW A DAVIS-BACON ACT APPLYIES TO A CONTRACT OR MAY NOT UNDERSTAND THE BIDDING CRITERION BASED ON CLASSIFICATION OR LACK THEREOF.

2. THE SMALL CONTRACTOR MAY NOT UNDERSTAND THE INCREASED WEEKLY ADMINISTRATION LOAD NECESSARY TO COMPLY WITH ACCOUNTING OF WAGES FOR DAVIS-BACON.

3. THE LABORERS ARE ACCLIMATED AT THEIR ESTABLISHED WAGE WHICH IS A CONSTANT AND THEIR LIFE STYLE IS ADJUSTED TO THAT SCALE.

4. AS THE LABORER STAYS ON AND BECOMES MORE VALUABLE TO THE EMPLOYER, THE PAY IS GRADUALLY INCREASED WHICH SATISFIES HIS SECURITY AND EGO NEEDS. (LETS ASSUME HE MAKES $4.00 HOUR).

5. BECAUSE OF THE STABILIZED WAGE, HIS PAY IS DEPENDABLE BECAUSE THE EMPLOYER CAN BID COMPETITIVELY.

NOW LETS EXAMINE THE UPHEAVAL CAUSED BY A DAVIS-BACON EXAGERATED WAGE INCREASE:

1. THE CONTRACTOR OR SUBCONTRACTOR MAY BID TOO LOW. (SOMETIMES THE DAVIS-BACON REQUIREMENTS ARE NOT SPELLED OUT IN THE REQUEST FOR BID AS SHOWN IN ATTACHMENT 6). IN LATE 1977 HENRICO COUNTY, VA AWARDED A $3,458,600 CONTRACT THAT WAS LATER INCREASED BY $517,000 (15%) AFTER 18 MONTHS OF CONSTRUCTION PROGRESS. THIS INCREASE WAS ABSORBED BY THE COUNTY AND THE CONTRACTORS--- BUT THE REAL COST TO THE CONTRACTOR WAS IN EXCESS OF $750,000.

2. THE LABORERS WAGES ARE ARTIFICIALLY INCREASED FROM $4.00/HR. TO $6.00/HR AND HE WORKS AT THAT WAGE FOR TWO MONTHS. HIS EGO AND HIS FAMILY ARE IMPRESSED THAT HIS WORTH TO THE COMPANY HAS SUDDENLY INCREASED BY 50% AND BOTH ADJUST PSYCHOLOGICALLY AND FINANCIALLY.

3. AFTER TWO MONTHS THE WAGES ARE REDUCED BACK TO $4.00 PER HOUR AND THE LABORER QUITS BECAUSE HE BELIEVES HE IS WORTH $6.00 PER HOUR. HE WILL GO ON UNEMPLOYMENT LOOKING FOR A $6.00 AN HOUR EMPLOYER.

4. IN ADDITION THE DOLLAR IMPACT ON THE $2.00 RAISE MAY YET PUT THE CONTRACTOR OUT OF BUSINESS BECAUSE MANY PARASITIC FUNCTIONS EQUATE DIRECTLY TO THE WAGE SCALE, i.e.:

FICA
WORKERS COMPENSATION
UNEMPLOYMENT INSURANCE
FUTA
FRINGE BENEFITS

→ THESE MAY VERY WELL REPRESENT AN ADDITIONAL INCRASE OF 50% TO EACH DOLLAR WAGE INCREASE.

BUILDEX DESIGN WAS INVOLVED IN A CONTRACT IN JULY 1981 CONTAINED AT ATTACHMENT #7. A SUBCONTRACTOR, WOODBRIDGE INSULATION WAS FORCED TO INCREASE AN $8,000 LABOR WAGE BY $4,000 TO ACCOMMODATE DAVIS-BACON. IT COST THE ALEXANDRIA SCHOOL SYSTEM AN UNNECESSARY $4,000, WOODBRIDGE INSULATION LOST EMPLOYEES, AND THE FINAL PARASITE TAXES MAY YET PUT WOODBRIDGE OUT OF BUSINESS. ----- THE IMPACT OF EXAGERATED WAGE INFLATION HAS PUT THE EMPLOYEES ON UNEMPLOYMENT --- REDUCED THE CAPACITY OF THE EMPLOYER'S WORK FORCE AND COST HIM HIDDEN DOLLARS FOR PARASITE FUNCTIONS THAT MAY NOT SHOW UP UNTIL THE END OF HIS FISCAL YEAR.

IN SUMMARY, THE UNITED STATES ECONOMICS ARE BASED ON SMALL BUSINESS FREE ENTERPRISE AND THIS IS BEING THWARTED BY THE EXISTING $2,000 DAVIS-BACON THRESHOLD THAT WAS ESTABLISHED IN 1935.

1. BY RAISING THE THRESHOLD TO 1 MILLION DOLLARS, 90% OF ALL SMALL BUSINESS CONTRACTS WILL BE FREED OF DAVIS-BACON CONTROL.

DAVIS-BACON CONTROL WILL STILL PREVAIL OVER THOSE CONTRACTS OVER 1 MILLION DOLLARS WHICH ENCOMPASS 85% OF THE WAGES PAID AND LABOR PERFORMED.

2. THE SMALL CONTRACTOR WILL ENHANCE HIS CHANCE OF SURVIVAL.

3. THE DEPARTMENT OF LABOR WILL REDUCE THE ADMINISTRATIVE WORK LOAD BY 90% OF THE EXISTING DEMAND FOR DAVIS-BACON NEGOTIATIONS FOR "PREVAILING" WAGES. THANK YOU FOR YOUR ATTENTION AND FOR THE OPPORTUNITY TO PRESENT RESULTS OF THESE STUDIES. I WILL NOW ATTEMPT TO ANSWER ANY QUESTIONS YOU MAY HAVE.

FY 1981 FEDERAL CONSTRUCTION PROCUREMENT DOLLARS

(DOES NOT INCLUDE EXTENSION LAWS)
SPECIAL STUDY BY OFFICE OF MGT. AND BUDGET (PROPOSED)

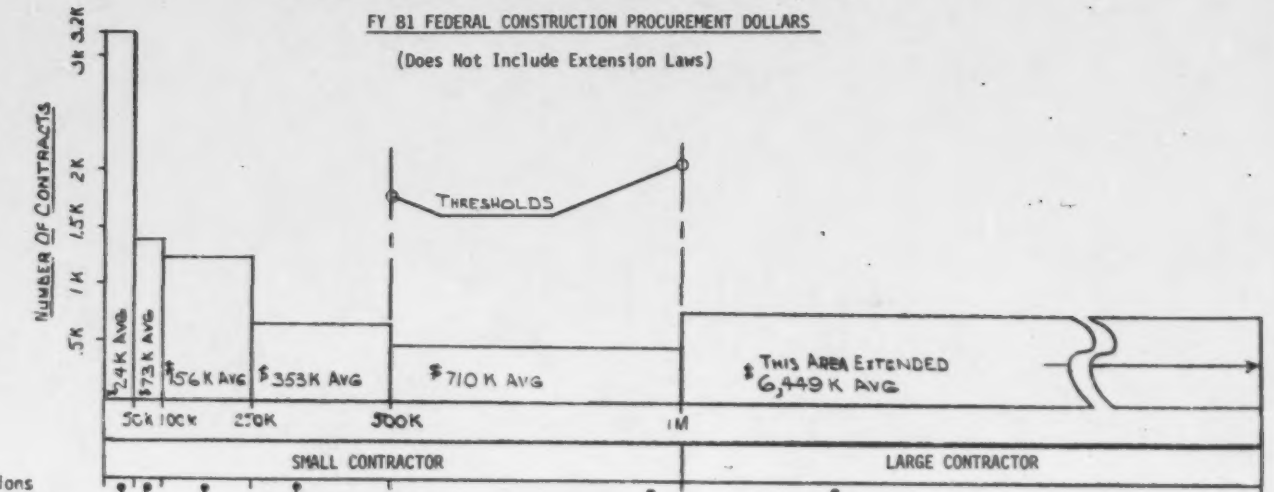
SIZE OF CONTRACT	NUMBER OF CONTRACTS	TOTAL $ X 1000	AVG/CONT.
10K - 25K	1994	$ 32,158	16K
26K - 50K	1242	$ 44,725	36K
51K - 100K	1404	$ 102,593	73K
101K - 250K	1252	$ 195,457	156K
251K - 500K	689	$ 243,067	353K
500K Davis Bacon Threshold	6581	$ 618,000	93K
501K - 1M	503	$ 357,161	710K
1M Davis Bacon Threshold	7084	$ 975,161	138K
1M - Over	822	$5,300,706	6449K
TOTAL FY 81 FEDERAL CONST.	7906	$6,275,867	794

ATTACHMENT # 1

SPECIAL STUDY BY OFFICE OF MANAGEMENT AND BUDGET (PROPOSED)

FY 81 FEDERAL CONSTRUCTION PROCUREMENT DOLLARS

(Does Not Include Extension Laws)



1-3 Workers
W/WO Bonding
One Room Renovations
Truck Office
House Painter
1 Pick-up Truck
No Benefits

2-4 Workers
1 House Construction
Office Conversion
1 Truck
Bonding
No Benefits
Office in House

3-5 Workers
2 Houses Under Constr.
1 Commercial;i.e., 7-11 Store
1 Pick-up & 1 Truck
Park. Lot Paving
Bonding
No Benefits
Small Office

5-8 Workers
Small Office Bldg. Const.
1-2 Trucks
Govt. Qtrs. Repairs
Bonding
1 Backhoe
Small Office

4-12 Workers
Total Conversions
Small Bridge Const.
10 Houses Const.
1 Dump Truck
1 Backhoe
Bonding
Efficient Office
Attorney
Accounting
Owner Decisions
Profit Sharing

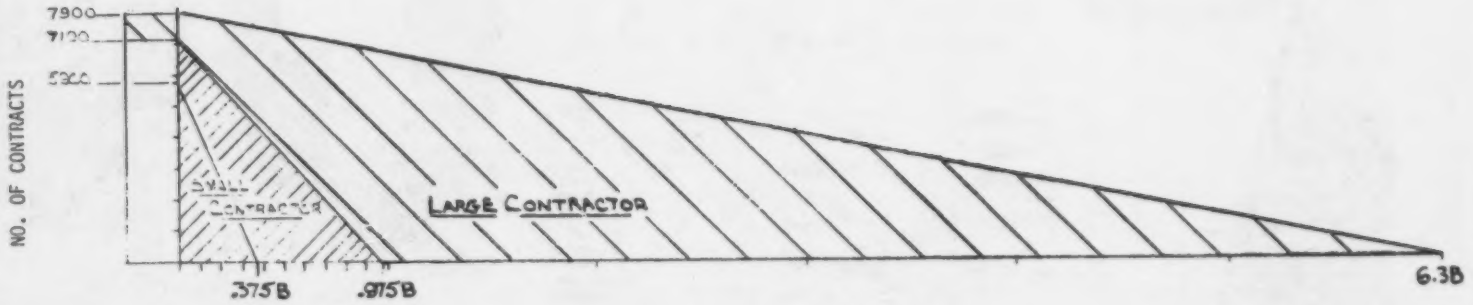
20 To 100's of Employees
Many Vehicles
Heavy Equipment
Computerized
Staff Attorney
Buildings & Development
Multi-Corporations
Specialized Staff;i.e., Architect,Design CM, Etc.
Diversified Decision Making
Profit Sharing
Benefits
Open or Closed Shop

ATTACHMENT 2

SPECIAL STUDY BY OFFICE OF MANAGEMENT AND BUDGET (PROPOSED)

FY 81 FEDERAL CONSTRUCTION PROCUREMENT DOLLARS

(Does Not Include Extension Laws)



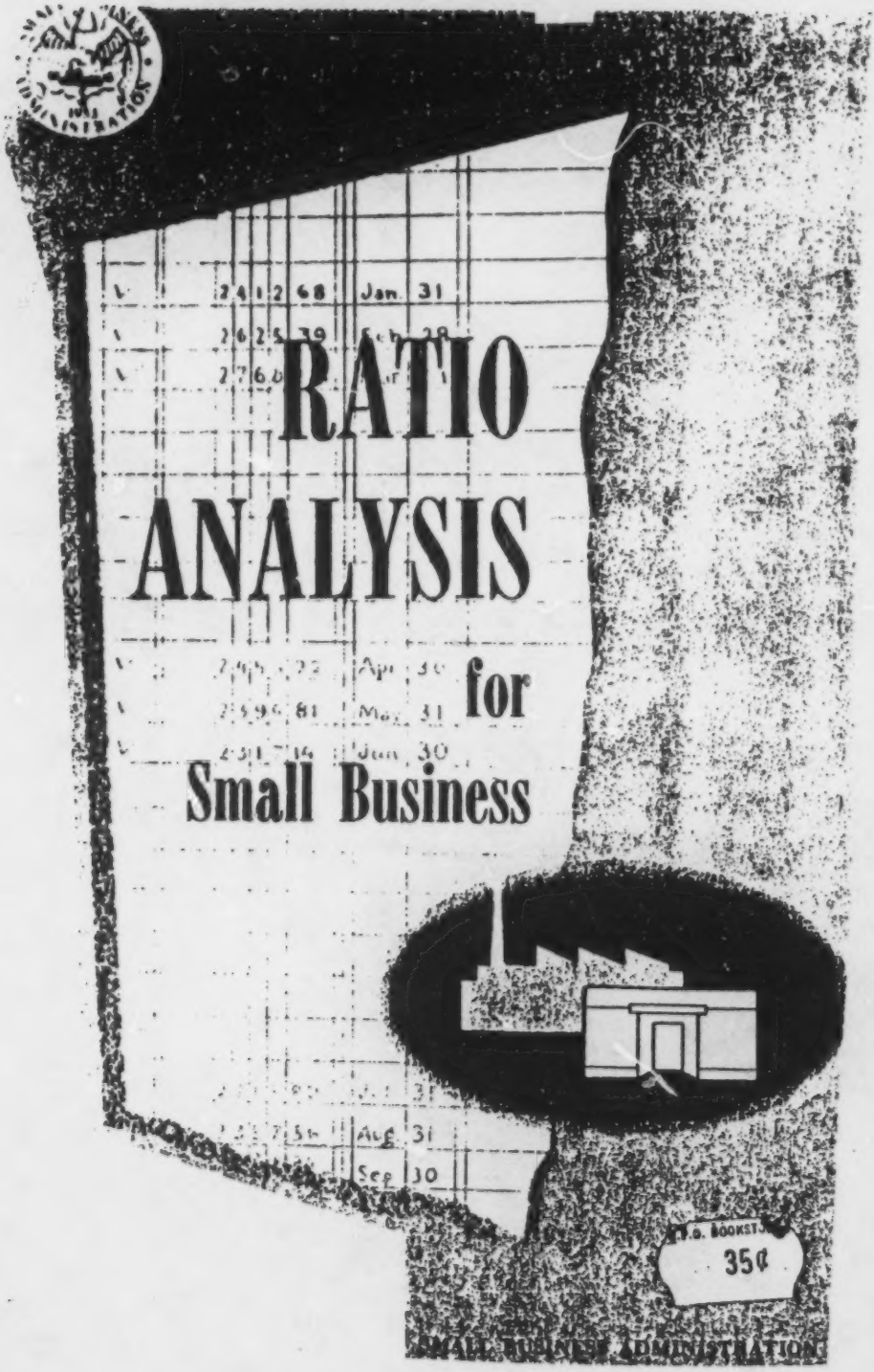
DOLLAR POPULATION CONTROLLED BY SMALL VS LARGE CONTRACTOR

$1 M THRESHOLD - Small Contractor controls 90% of Contracts and 15% of Dollars.
Large Contractor controls 10% of Contracts and 85% of Dollars.

$.5 M THRESHOLD- Small Contractor controls 75% of Contracts and 10% of Dollars.
Large Contractor controls 25% of Contracts and 90% of Dollars.

ATTACHMENT 3

ATTACHMENT 4



CHAPTER 1

Business Failure and Business Success

WHY DO SEVERAL THOUSAND business concerns disappear each year? There are various reasons. Of course, not all disappearances are failures. Some owners, for example, simply want to shift their capital to other lines. Nevertheless, many firms cease operations under conditions such as bankruptcy, receivership, or reorganization.

Most people experienced in the analysis of failures generally agree that nine out of 10 failures are caused by *a weakness in the management* of the business. This deficiency is usually indicated by such characteristics as unbalanced experience and inability to merchandise soundly, to control operating expenses, to grant credit intelligently, to understand basic inventory relationships, and to manage finances.

Is there, then, a formula for business success? No one has found such a formula, though many have tried. Business success, for example, is partly a matter of drive and energy, but many people who are not business successes have plenty of drive and energy. Likewise, it is partially a question of ingenuity, but many inventors were business failures. It is a question of salesmanship, to some extent, but many overly sales-minded managements have foundered on the rocks of financial mismanagement. It is skill in advertising, to a degree, but no advertising man ever claimed that his medium was exclusively the "open sesame" to business profits.

Success or Failure Relates to Management

Actually, most business success is based on the combination of knowledge and skills we call management.

Management, as Peter Drucker puts it in his book, *The Practice of Management,* implies the "ability to attain goals of business performance and business results." Other people prefer the concept that "Management is the function of administering capital and manpower

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in the production and distribution of goods and services." By either definition, management can be good or bad.

There is little doubt, however, that most business failures are due to management shortcomings, or inability to adapt to changing conditions. In this connection, it is sometimes argued that big business has advantages over small in every respect. In fact, so much has been made of the strong points of large companies that many a small business owner has tended to acquire an unjustified inferiority complex.

Large firms, it is true, have the strength of capital reserves to use as a buffer when business conditions are bad. They have the benefit of a staff organization for promotion and research. They also have the competitive advantage of being able—most of the time—to hire an adequate supply of new talent. Large firms generally know where they are going and how they intend to get there. And they have the control devices by which they can measure progress.

Small Business Has Advantages

The greatest advantage of a small business is its simplicity. In a small concern, the management is independent—often the manager is also the owner. The firm's area of operations is mainly local, though its markets need not be local. The small business manager is likely to be more keenly aware of individual customers. He is frequently more service minded. The small enterprise has adaptability, in contrast to the cumbersomeness of some large businesses. Its management is often closer than is the large business to the likes and dislikes of its workers. Its executives are often directly involved in many phases of operation because "the boss has to wear many hats." Small business has important opportunities in the field of service and distribution because the bulk of such products as drugs, hardware, paints, and gasoline are distributed by small enterprises.

The small firm has two unique advantages. One is adjustability of action—the owner can make on-the-spot decisions without the necessity of consulting numerous department heads, executives, directors, or stockholders. The second, and a very great one, is its simplicity. There are not likely to be very many items in the financial

structure, not a multiplicity of direct and indirect costs. Thus there are fewer complications in establishing cost systems, budgets, production control, programs, and so on.

Students of small business comment that where the small firm tends to fall down is in these areas: (1) failure to give enough time to thinking ahead on management problems, (2) failure to organize properly, (3) failure to plan adequately, and (4) failure to understand fundamental operating and financial relationships. It seems clear that, no matter what the outward symptoms may have been, many problems which lead to failure should have been recognized and solved by the top man.

Important Influences on Profitability

To put it a more positive way, small business managers usually have knowledge and experience in the production or selling of their goods. It is unlikely that many small business owners could be in business without having acquired such knowledge. But many businessmen who have received their education chiefly in the "school of hard knocks" should supplement that training with an understanding of at least half a dozen additional factors:

1. Allocation of each expense and overhead item in setting selling prices.
2. Policies and practices in regard to the granting of credit, particularly credit to borderline risks.
3. Inventory control in relation both to sales and to the operating capital in the business.
4. Balancing of assets such as real estate, machinery, equipment, and fixtures in proportion to the capital in the business.
5. Management of both current and long-term liabilities.
6. Apportionment of earnings among such competing demands as future growth and the payment of executive salaries.

Two fundamental control devices for guiding business management are the balance sheet and the profit-and-loss statement. Subsequent chapters show how maximum use can be made of these—by means of ratio analysis.

NUMBER OF BUSINESS FIRMS, SIZE OF POPULATION, AND NUMBER OF GAINFULLY OCCUPIED WORKERS, 1900-1958

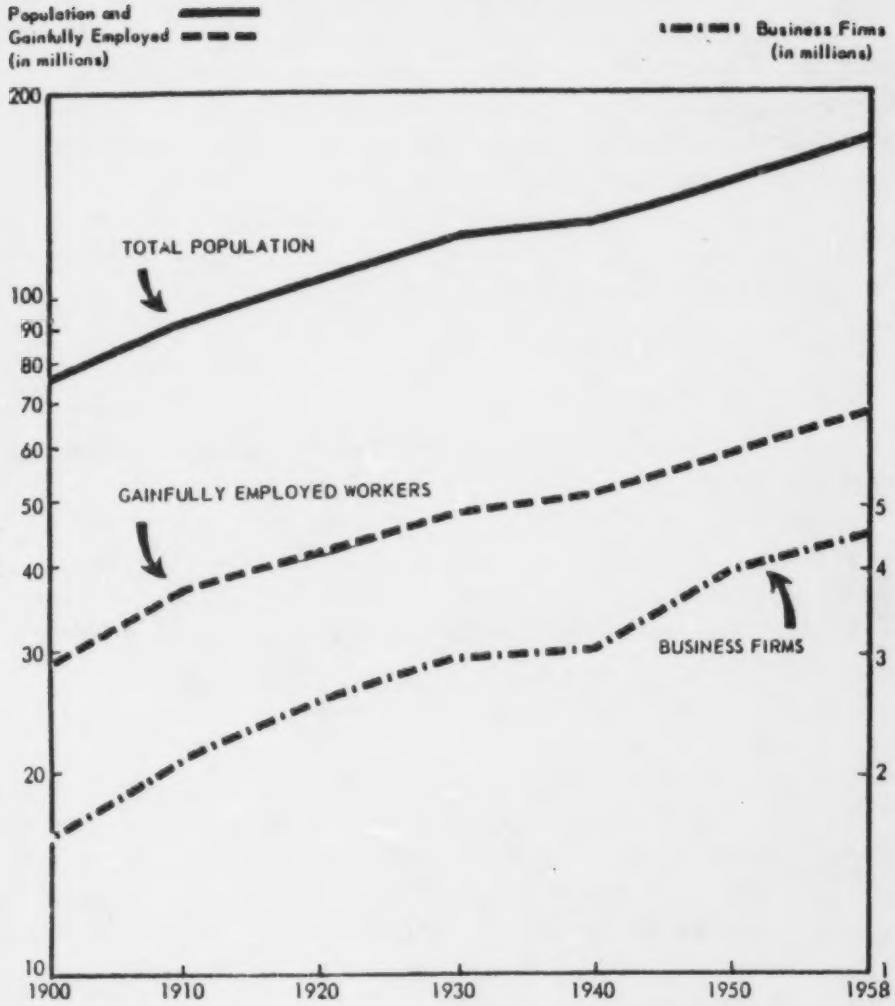

Figure 1

So pick the field you know most about. The best way to obtain knowledge of a business is through actual experience in it. If you feel otherwise qualified, but lack sufficient training, seek a job working for somebody else in the business you are considering. Try to find a position in a well-managed, successful company. Then absorb as much management know-how as you possibly can.

You will need every minute of experience you can get. Exactly how much you will need as a minimum depends upon the business and upon your general business knowledge. Experience in other types of work may teach you something about general business policies and operating methods. The transfer of experience from one type of business to another is often practicable.

Education will help, too. While there are usually no educational requirements for starting your own business, the more schooling you have had the better equipped you should be. For example, in most businesses you must know how to figure interest and discounts, keep simple and adequate records, and conduct necessary correspondence. Knowledge of these and many other helpful subjects may be acquired through formal education.

Next, make a sincere effort to determine as best you can whether customers or clients will like the type of business or service you wish to establish. The business should be in tune with the trend of the times. Choose a field in which expansion is logically expected. Study surveys and seek advice and counsel.

In conclusion, start with what you are prepared or equipped to offer. What can you do with your present preparation? Does anyone want the services you can render? May these services be adapted to present trends in the market?

YOUR CHANCES OF SUCCESS

What are your chances of success if you go into business? The number of businesses in this country is growing. In 1900 there were about 1⅔ million business firms in the United States, while in 1958 there were more than 4¼ million. This does not mean that the number increases every year. Year-to-year changes in the number of business firms are determined primarily by year-to-year changes in business conditions. As a general rule, poor business conditions are followed by a larger than average number of failures or disappearances, causing the total number of business firms to drop. On the other hand, if business conditions are good, the total number of business firms tends to increase. Special conditions may alter this pattern. But over the long run the number of firms increases along with the population and industrial growth of the country.

This growth is not free of growing pains, however. For example, in a U. S. Department of Commerce study[1] of the 11 years 1944 through 1954 the following facts were revealed. There were 9 million businesses newly acquired during the period—roughly half by transfer and half by establishment. During this same time 7.8 million concerns were disposed of—about 60 percent were sold, reorganized or otherwise transferred to new owners and 40 percent were liquidated.

Some types of firms had a better survival rate than others, according to the study. Wholesale firms had the best survival record. Financial, real estate, construction and manufacturing businesses did better than average. Service trades were below average, while retail trades had the lowest survival rate of all.

Half of the concerns which were newly established or acquired by transfer were sold or liquidated within 2 years. Chances dropped to about 1 out of 3 that a firm would live to the age of 4 years and to about 1 out of 5 that it would live to the age of 10.

But the longer a new firm endured, the greater was its life expectancy. Although at birth a firm could be expected to live 2 years, the study showed that the median firm which passed its 2-year-old birthday remained in operation an additional 5 years. So, your chances of success improve the longer you stay in business.

Besides general business conditions, there are other factors, over which the owners have no control, affecting individual firms. Examples of these are the relocations of highways, sudden changes in style, the replacement of existing products by new products, and local labor situations. While these factors may cause some businesses to fail, they may represent opportunities for others. One local market place may decline in importance, but at the same time new shopping centers are developing. Sudden changes in style or the replacement of existing products may bring troubles to certain businesses but open doors for new ones. Adverse employment situations in some areas may be offset by favorable situations in others. Ingenuity in taking advantage of changing consumer desires and technological improvements will always be rewarded.

The largest single cause of business failures may be attributed to poor management. Lack of managerial experience and aptitude has accounted for some 90 percent of the more than one million failures analyzed by Dun & Bradstreet, Inc. in the space of a century (1857 to 1957).[2]

In the final analysis, it is up to you. Will your management be competent? Will you be able to judge, and then satisfy, your customers' wants? Can you do this so accurately and quickly that risks due to factors beyond your control will be more than compensated for? Such accomplishment requires expert management.

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[1] "Age and Life Expectancy of Business Firms," *Survey of Current Business*, December 1955. Published monthly by U. S. Department of Commerce.

[2] "Least Likely to Succeed" by Rowena Wyant, *Dun's Review and Modern Industry*, December 1957.

Since the large majority of the Nation's business firms are small units, and most of them are retail and service establishments, it is not surprising that small units constitute a very large proportion of the annual business turnover. In 1956, 75.3 percent of the Nation's 4.4 million business firms were small units with fewer than 4 employees. Moreover, 65.3 percent of all the firms having fewer than 4 employees were retail and service establishments.[4] During 1951–55, 87 percent of the 1.8 million new businesses that opened their doors had less than 4 employees. Of the additional 1.9 million enterprises that were transferred to new ownership during this 5-year period, 83 percent had less than 4 employees.[5] Unfortunately, data on business closings by size of firm are not available for this same period. The most recent figures refer to the period 1940–45. These show that, during those years, 91 percent of the approximately 2 million firms which closed had less than 4 employees.[6]

This overwhelming preponderance of small units in the business turnover signifies more than a mere reflection of the fact that the great majority of all firms in operation at any time are small businesses. It strongly suggests that the small firms are less stable than the larger ones. This is illustrated by the fact that, in 1944–45, when closures were unusually low due to war conditions, the mortality rate among firms with less than 4 employees was more than 4 times higher than it was among concerns with 50 or more employees. The birth rate was even more than 10 times higher among small firms than among larger concerns.[7] It is essentially the small units which are involved in the annual whirlpool of business turnover. Some variation of experience does occur in different communities, in different fields of business, and under changing business conditions, but high mortality is not primarily a cyclical phenomenon. On the contrary, it is all-pervasive; the most striking fact is the regularity of failure and the persistence of high turnover rates.[8]

Circumstances of Business Mortality

The results of these business studies have proved valuable in pointing to some of the main problems of business growth and survival. Yet,

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[4] Betty G. Churchill, "Size of Business Firms," in *Survey of Current Business*, September, 1959, pp. 15–16.

[5] *Ibid.*, p. 18.

[6] Melville J. Ulmer, "The Postwar Business Population," in *Survey of Current Business*, January, 1947, p. 13.

[7] Donald W. Paden and Alice Nielsen, "Recent Trends in the Business Population," in *Survey of Current Business*, May, 1946, p. 21.

[8] Cf. the Poughkeepsie study by R. G. Hutchinson, A. R. Hutchinson, and Mabel Newcomer, "A Study in Business Mortality," in *American Economic Review*, September, 1938, pp. 497–514, which analyzes turnover data extending back to the 1840's.

BY THE COMPTROLLER GENERAL

Report To The Congress

OF THE UNITED STATES

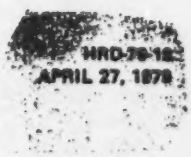
The Davis-Bacon Act Should Be Repealed

The Congress should repeal the act because:

--Significant changes in economic conditions, and the economic character of the construction industry since 1931, plus the passage of other wage laws, make the act unnecessary.

--After nearly 50 years, the Department of Labor has not developed an effective program to issue and maintain current and accurate wage determinations; it may be impractical to ever do so.

--The act results in unnecessary construction and administrative costs of several hundred million dollars annually (if the construction projects reviewed by GAO are representative) and has an inflationary effect on the areas covered by inaccurate wage rates and the economy as a whole.



ATTACHMENT 5a

Labor to be prevailing in the locality, in accordance with or pursuant to the Davis-Bacon Act. These statutes cover such Federal programs as housing, health, water and air pollution, transportation, and revenue sharing.

With these extensions to other acts, nearly every political subdivision in the Nation is confronted with the prospect of using Davis-Bacon Act wage rates on construction projects. A list of the 77 related statutes at April 30, 1977, is shown in appendix III.

Coverage of the act

About $172.5 billion was spent on new public and private construction projects in calendar year 1977. About 78.1 percent ($134.7 billion) was performed on privately financed projects without the prevailing wage protection of the Davis-Bacon Act. Federal construction of $7.4 billion (4.3 percent of the total) was covered directly by the prevailing wage provisions of the Davis-Bacon Act. The remaining $30.4 billion was spent on construction by State and local agencies, and a substantial portion involved Federal financial assistance, and thereby was covered by the act through extensions under the 77 related acts noted above.

A Labor official estimates that about 600,000 prime and subcontracts are awarded annually for these Federal, State, and local projects. With about 22 percent of total construction covered by the act, we estimate that less than 1 million of the 3.8 million U.S. construction workers were employed on these projects in 1977. Thus, the act directly affects less than an estimated 1 percent of the 100 million workers in the Nation's labor force.

Construction involves such a wide variety of activity that any attempt to generalize on industry characteristics is difficult. Federal and federally assisted construction covers all facets, from a crew of one or two on a $2,000 repair job to hundreds of workers on projects costing millions of dollars. Similarly, wage rates paid to workers vary substantially, not only with the type of project, but also with local construction practices and project location, especially in relation to the distance from large urban centers.

One characteristic of the construction industry which affects Labor's administrative practices in determining prevailing wages in localities is the fact that the vast majority of construction contractors are small. In 1975 the Department of Commerce's Bureau of the Census published 1972 data which

showed that 755,000 (82 percent) of the 921,000 construction contractors in the United States were composed of proprietors and working partners or firms with four employees or less.

Another factor affecting Labor's administration of the act is that unionization in the construction industry is declining. Bureau of the Census data in 1977 indicate a range of unionization in the construction work force varying from 20 percent in the South to about 50 percent in the Northeast and West. As a percentage, construction work-force unionization has declined from 54.7 percent (except for carpenters, who were separately reported at 45.4 percent) in 1970 to 35.7 percent in 1977, inclusive of carpenters.

Program administration

The Secretary of Labor has delegated his responsibilities for wage determinations and overall coordination of enforcement responsibilities to the Assistant Secretary of Labor for Employment Standards, who heads the Employment Standards Administration. The administration's Wage and Hour Division administers and enforces the Davis-Bacon Act through its Washington, D.C., headquarters, 10 Labor regional offices, and 90 area offices throughout the United States.

The Wage and Hour Division issues wage rate determinations under the Davis-Bacon Act to requesting Federal agencies responsible for awarding contracts. These rates are then shown as minimum rates in the bid specifications and the final contracts. Two kinds of wage determinations are issued--project determinations and area wage determinations. Project determinations are issued for a specific agency project and are effective for 120 days from the date issued. Area determinations apply to certain geographical areas (such as counties or States) and are required to be used on all Federal projects to be constructed in the covered area. They are published in the Federal Register and are in effect until superseded.

The Wage and Hour Division carries out its wage determination activities with a staff consisting of wage specialists and analysts supported by clerks and typists at the Washington headquarters and 10 regional offices.

In March 1978 the Wage and Hour Division had 73 staff members working on the wage determinations program at the headquarters and regional offices. Of these, only 50 were wage determination specialists or wage analysts; 26 were located in regional offices and 24 at headquarters. The remaining 23 were clerks and typists--15 at the regional offices and 8 at the headquarters.

Att. 5c

Appeal process

Under Labor's regulations, any interested party (such as an employee, a contractor, a Federal contracting agency, a contractor association, or a union) may seek a review of a Wage and Hour Division wage determination. The first step is informal--the determination is reviewed by the Wage and Hour Division, based on the complaint or protest and, if necessary, a formal hearing is held. The decision on the determination is then made by the Administrator, Wage and Hour Division. If still unsatisfied, the interested party may appeal the administrator's decision to the Wage Appeals Board.

Protests before the Wage Appeals Board

Wage determinations issued by Labor under the Davis-Bacon Act are final and not subject to judicial review. However, after much discussion on this point in congressional hearings held in 1962, the Secretary of Labor established in December 1963 the Wage Appeals Board.

The Board consists of three members appointed by the Secretary of Labor. It has jurisdiction to decide, at its discretion, appeals concerning questions of law and fact related to the Davis-Bacon Act decisions of the Secretary concerning:

--Wage determinations issued.

--Debarment cases.

--Controversies concerning enforcement of the payment of prevailing wage rates or proper job classifications which involve significant sums of money, large groups of employees, or novel or unusual situations.

The Board may decline the review of any case whenever in its judgment a review would be inappropriate because of (1) a lack of timeliness, (2) the nature of the relief sought, or (3) other reasons. The procedures for appeal and how the Board operates are set forth in the Code of Federal Regulations (29 C.F.R. 7) under the title "Appeals to the Wage Appeals Board."

Atch 5d

Davis-Bacon wage determination activity

The Wage and Hour Division staff is responsible for developing, issuing, and maintaining prevailing wage rates for all worker classifications involved in varying types of construction in 3,119 political entities throughout the country. Labor usually defines the entities as counties of the United States, Puerto Rico, Guam, and the Virgin Islands.

During calendar years 1976 and 1977 the Wage and Hour Division staff issued these wage determinations:

	Project		Area		Totals	
	1976	1977	1976	1977	1976	1977
New determinations	10,738	13,723	57	46	10,795	13,769
Supersedes determinations	46	36	621	579	667	615
Modifications	927	1,915	1,152	1,632	2,079	3,547
Total	11,711	15,674	1,830	2,257	13,541	17,931

The Wage and Hour Division issued about 15,470 wage determinations in 1978.

CHAPTER 2

THE DAVIS-BACON ACT IS NO LONGER NEEDED AND SHOULD BE REPEALED

We believe that the Davis-Bacon Act should be repealed because:

--Significant changes in social and economic conditions and the economic character of the construction industry since 1931, plus the passage of other laws to protect the wages of construction workers, have made the Davis-Bacon Act's intended protection unnecessary and irrelevant.

--After nearly half a century, Labor has yet to develop an effective program to maintain and issue current and accurate prevailing wage rates for every classification of employee working on the varying types of Federal or federally assisted construction. Labor's administration has resulted in inaccurate wage rate determinations being issued and has often produced results contradictory to the legislative intent.

--The act results in unnecessary construction costs and is inflationary. The setting of inaccurate wage rates by Labor causes the Federal Government to pay--if the construction projects we reviewed are representative--several hundred million dollars more than it should for construction each year. The act, along with the weekly payroll reporting requirement of the Copeland Anti-Kickback Act, also resulted in (1) an estimated $191.6 million for 1976 and $189.1 million for 1977 in unnecessary administrative costs for contractors complying with the acts' requirements--that are passed on to the Federal Government--and (2) estimated costs of about $10.9 million in 1976 and $12.4 million in 1977 to Labor and other Federal agencies to administer and enforce the acts.

SIGNIFICANT CHANGES IN ECONOMIC CONDITIONS AND WORKER PROTECTION LAWS MAKE THE DAVIS-BACON ACT LESS RELEVANT

The Davis-Bacon Act was enacted in 1931. The legislative intent was to discourage nonlocal contractors from bidding on Government projects and bringing in cheap, outside labor to work on the projects. The act as passed and amended

only provides that wages paid by successful contractors would not disturb local wage standards. It requires that contractors working on Federal projects pay at least the locally prevailing wages to their workers as determined by Labor. No new rates, either higher or lower than those prevailing, were required to be established by Labor.

The depression was a time that wreaked particularly severe havoc on the building industry. The dollar value of new construction declined steadily during the years 1929-33--from about $10.8 billion to $2.9 billion. In that same period construction employment fell from 1.5 million workers to 800,000 workers. The annual earnings of the average construction worker also fell from $1,674 in 1929 to about half that in 1933.

By 1931 the Government's involvement in the building industry was increasing. In 1926 only 18 percent of all new construction was publicly financed. But, as economic conditions declined, the Federal Government tried to help the economy by pumping more money into the construction industry. By 1934, 59 percent of all new construction was publicly financed.

Congressman Bacon of New York and Senator Davis of Pennsylvania believed that the Government should do something to assure that local labor and contractors got a fair opportunity to participate in the Government's building program. In 1931 they introduced identical bills in the 71st Congress that eventually became the Davis-Bacon Act, which was enacted on March 31, 1931. The act was passed under "emergency" procedures because of the depression and the unemployment situation.

The country has experienced tremendous growth since the 1930s. This is illustrated by the increase in the gross national product from $75.8 billion in 1931 to $1.9 trillion in 1977. The construction industry has grown significantly--particularly in the private sector. By 1977 new construction had risen to $172.5 billion, with over three-fourths ($134.7 billion) in the private sector and one-fourth ($37.8 billion) in the public sector.

Also, the construction industry employed about 3.8 million workers in 1977 (compared to about 1 million in the 1930s). Moreover, the average annual income of construction workers has increased from an estimated $1,674 in 1929 to

ATCH 5

about $14,000 in 1977. This increase generally kept pace with wage increases in the mining and manufacturing industries.

In addition, since the act was passed the Congress has enacted a number of other laws to protect construction workers against wage losses, exploitation by contractors, and adverse conditions. These laws (1) prohibit contractors from requesting wage kickbacks, (2) require that contractors be covered by payment bonds, (3) require that minimum and overtime wages be paid, and (4) provide for unemployment compensation.

THE ACT HAS BEEN AND CONTINUES TO BE IMPRACTICAL TO ADMINISTER

Labor has not developed an effective system to plan, control, and manage the data collection, compilation, and wage determination issuance functions under the Davis-Bacon Act. In fact, the policies, practices, and procedures developed by Labor for establishing wage rates under the act have only rarely implemented the legislative intent. Rates issued have nearly always affected local wage standards--in many instances amounting to wage fixing and limiting or establishing worker classifications for Government construction with no consideration given to classifications and corresponding wages paid on similar private construction in the locality.

Our evaluation of Labor's wage determination files and our inquiries regarding 73 specific wage determinations at five selected regions and headquarters showed that in many instances the wage rates were not accurately determined. About one-half of the area and project determinations reviewed were not based on surveys of wages paid to workers on private projects in the locality in which the wage rates issued were required to be paid. Instead, union-negotiated collectively bargained rates were required by Labor in these localities.

Also, when wage surveys were made there were problems in identifying similar projects and collecting data from contractors on a voluntary basis. In addition, much of the wage and worker classification data collected was not used or adjusted, upward or downward, by the regional and headquarters wage analysts, so that many of the classifications and rates seldom represented those that prevailed in the locality.

Associated General Contractors of Virginia Inc.
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2311 Westwood Avenue
Richmond, Virginia 23230
(804) 359-9288

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601 First Federal Bldg.
Roanoke, Virginia 24011
(703) 982-0331

May 5, 1981

The Honorable Raymond J. Donovan
Secretary of Labor
200 Constitution Ave., N.W.
Washington, DC 20210

Dear Secretary Donovan:

Vice President Bush, who chairs the new Task Force on Regulatory Relief, has asked for specific examples of bad regulations that increase costs of doing business for the U.S. taxpayers.

Enclosed is a summary of an actual case which clearly illustrates the financial and economic abuses of the Davis-Bacon Act in the construction industry.

The AGC of Virginia believes that immediate repeal of Davis-Bacon would allow the federal government to return to a rational construction policy. A policy that would save millions in tax dollars.

Thank you for the opportunity to present our views.

Yours very truly,

James F. Duckhardt

James F. Duckhardt
Executive Director

JFD/blh
enclosure
cc: The Honorable Malcolm Baldrige
Secretary of Commerce

Dr. James C. Miller III
Executive Director, Presidential
Task Force on Regulatory Relief

C. Boyden Gray, Esquire
Office of the Vice President

David Stockman, Director
Office of Management & Budget

Virginia Congressional Delegation

Enclosure # 1 to Board of Directors

ATTACHMENT 6a

ASSOCIATED GENERAL CONTRACTORS OF VIRGINIA, INC.
RICHMOND, VIRGINIA

MAY 5, 1981

TO: U. S. DEPARTMENT OF LABOR

REFERENCE: LABOR COST INCREASES CAUSED BY THE DAVIS-BACON ACT

EXAMPLE: PUBLIC SAFETY BUILDING - HENRICO COUNTY, VIRGINIA

The county awarded a contract for $3,458,600 to erect the safety building. The figure was based on the assumption that the contractor and subcontractors would pay workers at rates normally paid by these firms for work in the area.

After about 18 months construction the discovery was made that since federal funds were being used for the project, wages would have to be those required by the Davis-Bacon Act.

This means, for example, that non-union electricians who were orginally being paid $6 an hour had to be raised to $10.49. Carpenters who were getting $6.50 had to go to $9.26; laborers who were employed at from $3.50 to $4.50, depending on the type of work performed, had to be boosted to $5.70. All these increases add up to an actual cost of $517,000. (Estimated at $527,000.)

OTHER IMPACT: The increased Davis-Bacon rates have an unsettling effect on the entire labor market in the area. Labor cost on all construction increases as a result of the inflationary rates set by Davis-Bacon.

ORIGINATOR: JAMES F. DUCKHARDT, EXECUTIVE DIRECTOR
ASSOCIATED GENERAL CONTRACTORS OF VIRGINIA, INC.
P.O. BOX 6775
RICHMOND, VIRGINIA 23230
PHONE: (804) 359-9288

ATCH 6b

Richmond Times-Dispatch

JOHN STEWART BRYAN III, *Publisher*
JOHN E. LEARD, *Executive Editor*
ALF GODDYKOONTZ, *Managing Editor*
EDWARD GRIMSLEY, *Editor of the Editorial Page*

Wednesday, June 6, 1979

Costly Davis-Bacon

Henrico County taxpayers have been given a firsthand example of the costly and inflationary effects of the "ridiculous" Davis-Bacon Act.

The quoted adjective was one used by Henrico board Chairman Eugene T. Rilee Jr. when he learned that, thanks to the federal act, the county's public safety building will cost half-a-million dollars more than originally thought or that otherwise would be needed for its construction.

What happened was that in late 1977 the county awarded a contract for $3,458,600 to the Kenbridge Construction Co. to erect the safety building. The figure was based on the assumption that the contractor and subcontractors would pay workers at rates normally paid by these firms for work in this area. But late last year the discovery was made that since federal funds were being used for the project, wages would have to be those required by the Davis-Bacon Act.

This means, for example, that non-union electricians who were originally being paid $6 an hour had to be raised to $10.49. Carpenters who were getting $6.50 had to go to $9.26; laborers who were employed at from $3.50 to $4.50, depending on the type of work performed, had to be boosted to $5.70. All these increases add up to an estimated $527,000.

According to the contractor, there was no problem getting workers at the original pay rates. But no matter, the *Federal Register* carries the figures that the secretary of labor has determined to be the "prevailing rates" in each locality for each type of job. The $10.49 hourly rate for carpenters, for example, applies to Zone 1, which covers an area within 12 air miles of Staples Mill Road and Broad Street. The official list says that the "remainder of the city of Richmond and the county of Henrico" is in Zone 2, where the carpenters' rate is $11.24.

Under the Davis-Bacon Act, the "prevailing rate" as determined by the secretary of labor usually is pegged at the highest union contract figure in the area, or even higher, and that figure often is far from being the real prevailing rate in the community, as evidenced by the Henrico safety building project. Union brick masons on the Henrico project originally were getting $9.50 an hour; under Davis-Bacon the figure had to be raised to $9.86. (All the increases are retroactive to the beginning of the construction.)

The safety building is being financed with some of the federal revenue-sharing funds that come to Henrico County, but federal, state and local funds all come from the same source: the taxpayers' pocketbooks. When Davis-Bacon runs up the cost of a federally financed or assisted project at any spot in America, it affects the taxpayers from one end of the country to the other. More directly, when Henrico has to add half-a-million dollars to the cost of its public safety building, that's half-a-million dollars that can't be used for other needed purposes in the county.

Davis-Bacon is an inflationary drain on the country; it serves no constructive purpose, and even the comptroller general of the United States has issued a report calling for its repeal. Congress should wipe the law off the books.

JOHN STEWART BRYAN III, *Publisher*
JOHN E. LEARD, *Executive Editor*
ALF GODDYKOONTZ, *Managing Editor*
EDWARD GRIMSLEY, *Editor of the Editorial Page*

Monday, May 11, 1981

Repeal Davis-Bacon

"The American people now want us to act and not in half measures," President Reagan declared in his recent speech to Congress. "They demand — and they have earned — a full and comprehensive effort to clean up our economic mess."

The president was, of course, using his "bully pulpit" in seeking to persuade Congress to endorse his budget plans against a Democratic alternative. In another area of economic policy, meanwhile, the president himself is facing a test of his commitment to "full and comprehensive" reform. At issue is the Davis-Bacon Act.

Davis-Bacon requires that contractors in federally funded construction projects pay workers the "prevailing wage," which, according to the method of determination used by most Labor Department officials usually is found to be the *highest* wage in the region. In some small towns, for instance, the average free market wage for workers in a given construction trade may be as low as half the highest wage paid to union workers in the same trade in the nearest large city. Standard Labor Department practice is to declare the big-city union wage the "prevailing" one and force contractors in projects receiving federal funds throughout the region to pay the higher wage.

The effect of Davis-Bacon is, of course, inflationary. The General Accounting Office has estimated that, through wage inflation alone, Davis-Bacon boosts the taxpayers' bill for federal construction by more than $1 billion a year. The full inflationary impact probably is considerably greater, for many contractors are discouraged from bidding for federal projects because Davis-Bacon would put them in the position of having to pay employees detailed to federal projects vastly more than other employees performing the same work on non-federal projects. This reduction in competition in all likelihood raises the overall cost of federal construction in ways not yet measured.

Davis-Bacon is supported by labor unions for obvious reasons of self-interest, and it has been defended by liberal members of Congress according to the classic argument used to promote minimum wage laws, namely that there is something inherently "just" about government intervention that artificially hikes the price of labor, either in general or in selected markets. This position blithely ignores the inflationary impact of such intervention, ignoring, thereby, too, the devastating consequences of inflation on basic social morality, which so well were described by George Mason University economist Walter Williams in his May 3 column in *The Times-Dispatch*.

An outspoken critic of Davis-Bacon, Dr. Williams has wondered why the law is not considered ignominious by most liberals. A major argument in favor of the bill, when it was enacted during the Great Depression of the 1930s, was that it would keep "cheap" black labor from competing for scarce jobs already held by whites. Davis-Bacon was from the beginning a largely racist scheme of the "haves" against the "have-nots," and, according to Dr. Williams, in effect it remains just that.

Last month, the Senate Subcommittee on Labor held hearings on Davis-Bacon. The subcommittee's chairman, Sen. Don Nickles, R-Okla., is known to be a foe of the law, but neither he nor any other member of Congress this year has introduced repeal legislation. Davis-Bacon opponents are waiting for promised administrative actions by President Reagan's Labor Department that would substantially eliminate the inflationary effects of the law. Mr. Reagan himself shied away from advocating repeal of Davis-Bacon during last fall's campaign. Any reform to reduce the inflation that Davis-Bacon has been causing would be welcome, of course, but none, to our way of thinking, would represent as "full and comprehensive" an effort as repeal.

WOODBRIDGE INSULATION
Contractors

7303 Lockport Place
Lorton, Virginia 22079

Phone 550-7667 – 690-1815

August 3, 1981

Buildex Design, Inc.
6701 Richmond Highway
Alexandria, Virginia 22306

Reference: George Mason Elementary School
Alexandria, Virginia
VVIR 81703.04

Gentlemen:

Change Order No. 1085, dated 7-29-81, pertaining to the above referenced job, was received prior to our being advised and notified that the Davis Bacon act and scale wages would apply.

Our obligation to comply with this act will add $4,000.00 to the original Change price of $18,251.00.

Part of CO-22,251

Very truly yours,

William L Skinner

William L. Skinner
President

Executive Offices
Suite 400
6911 Richmond Highway
Alexandria, Virginia 22306
(703) 765-8822

Buildex Design
Alexandria

Field Offices:
6701 Richmond Highway
Alexandria, Virginia 22306
(703) 765-7663

AUGUST 20, 1981

PROGRESS MEETING REPORT

GEORGE MASON ELEMENTARY SCHOOL

ENERGY CONSERVATION RESERVATION

CONFIDENTIAL

A progress meeting was held on August 10, 1981 at the office of Dr. Harper. The following people attended:

Alexandria School System

Dr. Robert Harper

VVKR

Mark Krause

Buildex Design, Inc. (BDI)

Pat Humphreys

Administrative

1. An adjustment of $4000.00 for crawl space insulation to accommodate Davis-Bacon required pay scale for insulators was discussed. A verbal agreement to the increase was reached and subsequently an amended change order was submitted reflecting this change. To date BDI has not received a signed change order.

2. A bill for $6000.00 for crawl space insulation material currently on site is submitted.

3. A bill for $6000.00 is submitted for 50% of window installation completion.

Executive Offices
Suite 400
6911 Richmond Highway
Alexandria, Virginia 22306
(703) 765-8822

BDI Index Design
Alexandria

Field Offices
6701 Richmond Highway
Alexandria, Virginia 22306
(703) 765-7663

August 4, 1981

PROGRESS MEETING REPORT

GEORGE MASON ELEMENTARY SCHOOL ENERGY CONSERVATION RESERVATION

CONFIDENTIAL

A meeting was held on July 27, 1981 at the George Mason Elementary School. Following people attended:

VVKR

Mark Krause

ALEXANDRIA SCHOOL SYSTEM
-Jim AISQUITH

BDI

Pat Humphreys

Adiministrative

1. Three radiators not on drawings were located and subsequently modified. Two radiators on drawings were not in building.

2. It was decided that due to the complexity of modifying the two Trane Units to electrical controls they would be excluded from the contract. These two actions required no change to contract price.

3. Change orders were submitted for windows not on the drawings and for chimney repair.

Task Status to Date

1. BDI has a letter from Woodbridge Insulation Company, Inc. that states when the cost for crawl space insulation was given to BDI they did not know the Davis-Bacon wage scale would apply. They have further stated they will not do the job at the present price and would require $4000.00 more for labor to meet the Davis-Bacon wage scale for Asbestos Workers. BDI has determined the additional raw labor costs will be $4000.00 to $4800.00 and that no overhead or profit had been added by either the Sub-contractor or the Prime contractor. It appears two courses of action are available.

   a. Pay the $4000.00 additive.
   b. Cancel crawl space insulation.

ATCH 7 d

2. The contract between BDI and Woodbridge Insulation for the Boiler Rooms specifically stated the job would be accomplished in accordance with VWKR Project No. 81703.04 which includes the requirement for the Davis-Bacon wage scale. Woodbridge Insulation will pay the scale for Asbestos Workers at their expense.

3. Heating control valves are completed.

4. Boiler Room insulation is completed.

5. Chimney repair will be completed by 8-7-81.

6. Window installation will commence this week. Anticipate two weeks for job completion.

Alexandria City School Board	Date
VWKR	Date
Buildex Design, Inc.	Date

FOR DEPARTMENT OF LABOR USE

Response To Request

a. ☐ Use area determination issued for this area

b. ☐ The attached decision noted below is applicable to this project

Decision Number
81-VA-650

Date of Decision
7/15/81

Expires
11/11/81

Supersedes Decision Number

Approved

[signature]
Director
Division of Government
Contract Wage Determinations
Wage and Hour Division

Requesting Officer (typed name and signature)
JOHN J. SHAWARYN, DAVIS-BACON COORDINATOR

Department, Agency, or Bureau
U.S. DEPARTMENT OF ENERGY

Phone Number
597-3606

Date of Request
June 30, 1981

Est. Advertising Date

Est. Bid Opening Date

Prior Decision Number (if any)

Est. $ Value of Contract
☒ Under ½ Mil. ☐ 1 to 5 Mil.
☐ ½ to 1 Mil. ☐ Over 5 Mil.

Type of Work
☒ Bldg. ☐ Highway
☐ Resid. ☐ Heavy

Location of Project (city or other description)
Alexandria

County

State
VIRGINIA

Address to which wage determination should be mailed. Must be complete and include ZIP Code. (Print or type)

U.S. DEPARTMENT OF ENERGY
1421 CHERRY ST.
ICP STAFF--10th FLOOR
PHILA, PA, 19102
ATTN: J. J. SHAWARYN JR.

Wage Survey by Agency Attached
☐ YES ☐ NO

Wage Survey by Agency in Progress
☐ YES ☐ NO

Description of Work (Be specific) (Print or type)
"SEE ATTACHED SHEET FOR PROJECT DESCRIPTIONS OF VARIOUS INSTITUTIONS WITHIN COUNTY"

CHECK OR LIST CRAFTS NEED. D
(Attach continuation sheet if needed)

___ Asbestos workers
___ Boilermakers
___ Bricklayers
___ Carpenters
___ Cement masons
___ Electricians
___ Glaziers
___ Ironworkers
___ Laborers, (specify classe
___
___
___
___
___
___ Lathers
___ Marble & tile setters, terra workers
___ Painters
___ Piledrivermen
___ Plasterers
___ Plumbers
___ Roofers
___ Sheet metal workers
___ Soft floor layers
___ Steamfitters
___ Welders--rate for craft
___ Truck drivers
___ Power equipment operat (specify types)
___
___
___
___
Other crafts
___
___

FOR COURT OF CLAIMS

164

338-102

(THIS REPLACES FORMS DB-11 & DB-11a)

STANDARD FORM 308
U.S. DEPARTMENT O
(29 CFR) Subtitle A, P

Senator NICKLES. Mr. Brown?

STATEMENT OF JOSEPH C. BROWN, JR., PRESIDENT, BEACH BUILDING CORP., VIRGINIA BEACH, VA.

Mr. BROWN. Senator Nickles, my name is Joseph C. Brown, Jr. I'm president of Beach Building Corp.

Beach Building Corp. is a small business concern in Virginia Beach, Va. We do medium-sized commercial projects throughout the State of Virginia and North Carolina. In 1981, we did approximately $4 million in U.S. Government construction awarded to us through the public bid process.

I have submitted a list of my employees who worked on these projects, along with a comparison of the Government-required wage to the wage for work on private jobs in our area.

According to our audited financial statement dated September 30, 1981, we had a cost of $295,582 in labor on the Government jobs. If the Davis-Bacon requirements were not in force, the payroll cost would have been an estimated $206,908, a savings to the Government of $88,674—some 30 percent.

A fact to also remember is that we are general contractors. We accomplish only 10 percent of the actual $4 million in volume with our own forces. We subbed out approximately $3.6 million in work to area subcontractors. They also have to pay Davis-Bacon wages, which they have complained to us are grossly out of line.

Another detrimental effect Davis-Bacon has on small business is that we cannot get sub prices from a lot of our small subcontractors that do our private work. They are afraid of the repercussions from their own labor forces over having two pay scales, one for the non-Government jobs and one for the Government jobs. Thus, in this instance, Davis-Bacon is discouraging small business from participating in Government programs.

Throughout our industry, it is felt that the Government wants to keep Davis-Bacon because it uses the forced pay scale to justify higher wages to its own public works emplcyees.

In closing, let me say that from my own first-hand knowledge, Davis-Bacon is inflationary, discouraging to small business, and hinders open market competitiveness, which costs the Government millions of dollars.

Thank you.

Senator NICKLES. Thank you, Mr. Brown.

[The prepared statement of Mr. Brown follows:]

Beach Building Corporation

State Registered General Contractor • Virginia • North Carolina

COMMERCIAL • INDUSTRIAL • GOVERNMENTAL

MAIN OFFICE:
4942 Euclid Road
P.O. Box 62206
Virginia Beach, Va 23462

Telephone:
Area Code 804
Office: 499-4189

January 2, 1982

Dear Senator [illegible]es
Other Member[illegible] of the Senate

My name is Joseph C. Brown, Jr., President of Beach Building Corporation. Beach Building Corporation is a small business concern in Va. Bch., Va. We do medium sized commercial projects throughout the state of Va. and North Carolina. In 1981 we did approximately four million dollars in U.S. government construction awarded to us through the public bid process.

I have submitted a list of my employees that worked on these projects along with a comparison of the government required wage to the wage paid for work on private jobs in our area.

According to our audited financial statement dated September 30, 1981 we had a cost of $295,582.00 in labor on the government jobs. If the Davis-Bacon requirements were not in force, the payroll cost would have been an estimated $206,908.00. A savings to the government of $88,674.00 - some 30% savings.

A fact to also remember is that we are general contractors. We accomplished only 10% of the actual four million dollars in volume with our own forces. We subbed out approximately 3.6 million dollars in work to area subcontractors; they also have to pay Davis-Bacon wages of which they complained to us is grossly out of line.

Another detrimental effect Davis-Bacon has on small business is that we cannot get sub prices from alot of small subcontractors that do our private work. They are afraid of the repercussions from their own labor forces over having two pay scales - one for non-government jobs and one for government jobs. Thus, in this instance, Davis-Bacon is discouraging small businesses from participating in government programs.

Throughout our industry it is felt the government wants to keep Davis-Bacon because it uses the forced pay scale to justify higher wages to its' own public works employees.

In closing let me say that from my own first hand knowledge, Davis-Bacon is inflationary, discouraging to small business and hinders open market competitiveness which costs the government millions of dollars. Thank you.

Respectfully,

BEACH BUILDING CORPORATION

J. C. Brown, Jr.
President

JCBjr/bd

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PROJECTS' PAY SCALE ANALYSIS

Name	Classification	Nongovernment job hourly rate	*Government job hourly rate
1. Edward Almeda	Unskilled Laborer	$6.00	$6.65
2. Dale Campbell	Unskilled Laborer	$5.50	$7.36
3. Levy George	Carpenter/Appr.	$7.40	$7.36
4. Gary Hobbs	Carpenter	$8.31	11.71
5. Jeffrey Leavitt	Carpenter	$8.31	11.71
6. Bruce Myers	Unskilled Laborer	$5.25	$7.36
7. John Myers, Jr.	Carpenter	$8.31	11.71
8. Edward McGinnis	Carpenter	$8.31	10.56
9. Jeffery Pyatt	Carpenter	$8.31	11.71
10. Gary White	Unskilled Laborer	$6.00	$7.36

*This rate is based upon government directed payroll Requirements for each job (copies attached). These rates were taken from our payroll records for week ending 1/27/82.

This information is true and correct to the best of my knowledge.

BEACH BUILDING CORPORATION

Joseph C. Brown, Jr.
President

Mrs Bobbi Dillon

Mrs. Bobbi Dillon
Payroll Clerk/Technical Assistant

Judith A. Campbell
NOTARY PUBLIC
Judith A. Campbell
My Commission Expires 1-4-85

MEMBERS
ASSOCIATED GENERAL CONTRACTORS OF AMERICA
BUILDERS AND CONTRACTORS EXCHANGE
CHAMBER OF COMMERCE

SUPERSEDEAS DECISION

STATE: Virginia Country/Convenience N62470-79-C-9483 Norfolk, Va.

LOCATION: The Cities of Chesapeake, Portsmouth and Virginia Beach

DECISION NO.: VA80-3067

DATE: Date of Publication

Supersedes Decision No. VA78-3076 dated November 3, 1978 in 43 FR 51592

DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	10.75	.70	.70		
BOILERMAKERS	12.70	1.175	1.30		.04
BRICKLAYERS AND STONE MASONS	11.38	.70	.20		.03
CARPENTERS AND SOFT FLOOR LAYERS	10.55	.55	.55		.06
CEMENT MASONS:					
Cement Masons	9.85				
Machine and Scaffold Men	9.95				
ELECTRICIANS AND CABLE SPLICERS	11.05	.60	8%	a	1%
ELEVATOR CONSTRUCTORS	8.80	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS HELPERS	6.16	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS HELPERS PROBATIONARY	4.40				
GLAZIERS	5.95	.30	.10		.01
IRONWORKERS:					
Reinforcing, Ornamental, Structural, Riggers, Fence Erectors, Machinery Movers	11.30	.75	1.25		.08
LABORERS:					
Unskilled	6.70	.25	.35		.06
Tenders, Motorized Georgia Buggy Operators, Nozzlemen (gunite or sandblasting), Concrete Saw Operators, Air Tool and Vibrator Operators	6.80	.25	.35		.06
Mortar Mixers, Hod Carriers, Pipelayers, Caulkers, Marble, Tile and Terrazzo Workers Helpers	6.95	.25	.35		.06
Burners (wrecking)	7.05	.25	.35		.06
Floor, Base and Terrazzo Grinders	7.10	.25	.35		.06
Wagon Drill and Air Trac	7.20	.25	.35		.06
Powdermen	7.45	.25	.35		.06
LATHERS	10.75		.25		
LEAD BURNERS	10.75	.40	.25	d	.01
LINE CONSTRUCTION:					
Linemen and Cable Splicers	11.05	.60	8%		1%

Decision NO. VA78-3076-Mod#9 (43 FR 51592-November 3,1978) The cities of Chesapeake,.. Portsmouth, & Virginia Beach, Virginia	Bachelor Enlisted Quarters N62470-80-C-0018 N.A.S. Oceana, Va. Bch.				
CHANGE:					
Asbestos Workers	10.15	.70	.70		
Boilermakers	11.70	1.175	1.10		.04
Carpenters & Soft Floor Layers	9.40	.55	.55		.06
Cement Masons:					
Cement Masons	$ 8.60				
Machine & Scafford Men	8.70				
Electricians	10.55	.60	8%	a	1%
Ironworkers:					
Reinforcing, Ornamental, Structrual, Riggers. Fence Erectors, Machinery Movers	10.30	.65	1.10		.08
Laborers:					
Unskilled	6.10	.25	.25		.05
Tenders,Motorized Georgia Buggy Operators, Nozzlemen (gunite or sandblasting), Concrete Saw Operators, Air Tool & Vibrator Operators	6.20	.25	.25		.05
Mortar Mixers, Hod Carriers Pipelayers, Caulkers,Marble Tile & Terrazzo Workers					
Helpers	6.35	.25	.25		.05
Burners (wrecking)	6.45	.25	.25		.05
Floor Base & Terrazzo Grinders	6.50	.25	.25		.05
Wagon Drill & Air Trac	6.60	.25	.25		.05
Powdermen	6.85	.25	.25		.05
Lathers	10.75		.25		
Line Construction:					
Linemen & Cable Splicers	10.55	.60	8%		1%
Marble Setters	8.83	.60	.20		
Millwrights	10.70	.55	.55		.01
Painters:					
Brush and Roller	8.75		.40		
Structural Steel Fm.Ground to 74'	9.25		.40		
Spray, Paperhangers & Glove Work	9.10		.40		
Any Work Over 74' From The Ground	10.05		.40		
Bituminous Coating & Hot Creosite	10.40		.40		

SUPERSEDEAS DECISION

STATE: Virginia

LOCATION: The Cities of Chesapeake, Portsmouth and Virginia Beach

DECISION NO.: VA80-3067

DATE: Date of Publication

Supersedes Decision No. VA78-3076 dated November 3, 1978 in 43 FR 51592

DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	10.75	.70	.70		
BOILERMAKERS	12.70	1.175	1.30		.04
BRICKLAYERS AND STONE MASONS	11.38	.70	.20		.03
CARPENTERS AND SOFT FLOOR LAYERS	10.55	.55	.55		.06
CEMENT MASONS:					
Cement Masons	9.85				
Machine and Scaffold Men	9.95				
ELECTRICIANS AND CABLE SPLICERS	11.05	.60	8%	a	1%
ELEVATOR CONSTRUCTORS	8.80	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS HELPERS	6.16	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS HELPERS PROBATIONARY	4.40				
GLAZIERS	5.95	.30	.10		.01
IRONWORKERS:					
Reinforcing, Ornamental, Structural, Riggers, Fence Erectors, Machinery Movers	11.30	.75	1.25		.08
LABORERS:					
Unskilled	6.70	.25	.35		.06
Tenders, Motorized Georgia Buggy Operators, Nozzlemen (gunite or sandblasting), Concrete Saw Operators, Air Tool and Vibrator Operators	6.80	.25	.35		.06
Mortar Mixers, Hod Carriers, Pipelayers, Caulkers, Marble, Tile and Terrazzo Workers Helpers	6.95	.25	.35		.06
Burners (wrecking)	7.05	.25	.35		.06
Floor, Base and Terrazzo Grinders	7.10	.25	.35		.06
Wagon Drill and Air Trac	7.20	.25	.35		.06
Powderman	7.45	.25	.35		.06
LATHERS	10.75		.25		
LEAD BURNERS	10.75	.40	.25	d	.01
LINE CONSTRUCTION:					
Linemen and Cable Splicers	11.05	.60	8%		1%

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Va. Bch.

Page 2.

DECISION NO. VA80-3067

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS	9.50	.60	.20		
MILLWRIGHTS	11.95	.55	.55		.01
PAINTERS:					
Brush and Roller	9.65		.50		
Structural Steel from Ground to 74 feet	10.15		.50		
Spray, Paperhangers and Tapers	10.60		.50		
Any Work Over 74 feet from the Ground	10.95		.50		
Bituminous Coating and Hot Creosote	11.30		.50		
Swing Stage Under 40 Feet, Rollers With 6 Feet Handles and Over, Epoxy Brushed or Rolled	9.90		.50		
Swing Stage Over 40 Feet	10.15		.50		
Epoxy, Sprayed	10.25		.50		
Sandblasting	10.40		.50		
PILEDRIVERMEN AND DOCK-BUILDERS	10.05	.55	.55		
PLASTERERS	11.66	.40			
PLUMBERS AND STEAMFITTERS	11.30	.80	.75		.12
ROOFERS COMPOSITION	7.10				
ROOFERS HELPERS (Tearing off old roofing, carrying materials & clean-up)	5.20				
SHEET METAL WORKERS	10.05	.45	.55		.005
SPRINKLER FITTERS	11.79	.85	1.20		.08
TERRAZZO AND TILE WORKERS	8.20	.60	.20		

Senator NICKLES. So Mr. Brown and Mr. Downey both are operating businesses that are still wrestling with the problems of Davis-Bacon?

Mr. BROWN. Yes, sir.

Senator NICKLES. Both of you alluded to the problem of finding subcontractors who would take subcontracts that were under the Davis-Bacon rules or mandates.

Do you think your workers, in the long run, are better off because we have Davis-Bacon or the reverse?

Mr. BROWN. I don't think they're better off in the long run, because they become accustomed to the higher wage, and as time and economic conditions get tighter, you have to let some of these people go, because as they become accustomed to the higher wages, you can't go out and bid private work, and it's awful hard to cut them back from, say, $6 an hour to $4 an hour. They become accustomed to it and they expect it. And when you go out and bid private work in the tight economic conditions that we have now, you can't afford to keep them on the payroll at that price.

Senator NICKLES. Mr. Downey, why would a contractor not understand the bidding connected with Davis-Bacon? You mentioned one contract where there was a need to come back, and also the $750,000, which was a 20- or 30-percent increase in the estimated cost.

Mr. DOWNEY. Yes, sir. I think the answer to that is: The problem that I addressed was that of a general contractor's status. Now, in today's market, a general contractor may sub out 90 percent of his work. In that 90 percent, you're using small contractors who don't have an administrative staff and, as a result, these people very often don't even completely read all the specifications and guidelines that they're under control of.

It puts the general contractor in a position of guiding that subcontractor through, which he should, because he is in essence responsible for a miscalculation from his sub when it comes to paying the additional wages.

Senator NICKLES. In going back to how this is affecting workers in different areas, it was mentioned by some of the earlier panelists that Davis-Bacon was prohibiting entrance of unskilled workers into markets. Have you found that to be the case to some extent, or are you able to bring unskilled workers into the arena?

Mr. DOWNEY. I'd like to address that. I have a colleague who came in here from Roanoke with that real world issue, and I'd like to introduce Elmer Holdway, if I might, and have him give his experience on that situation.

Senator NICKLES. Quickly. We have three more panels, but we'll be happy to hear some personal experience.

Give your name and company, please.

Mr. HOLDWAY. Yes, sir.

STATEMENT OF ELMER D. HOLDWAY, VICE PRESIDENT, MARSTELLER CORP., ROANOKE, VA.

Mr. HOLDWAY. Mr. Chairman, my name is Elmer Holdway. I am vice president of Marsteller Corp. We're a small contracting firm from southwest Virginia.

We have a problem which we can address directly, in that it is classification of our employees. On a specific job on a recent onsite job meeting, we were told that we had to rate all of our employees as skilled mechanics, which would apply in this case to a cement mason versus a laborer or a helper.

In this case, this means that the reason that we have to do this is because we are using more efficient equipment. The helper is using a drill mixer that is an electric drill mixer, and we've been told that as long as he uses a drill mixer to mix the mortar to place on the floor for the cement masons to trowel down, he has to be classified as a cement mason.

Now, here we're being penalized because the helper is no longer using an antiquated hoe and shovel, and I think this problem that we have here——

Senator NICKLES. What was the difference in the pay scales for what you would pay your helper as compared to the cement mason?

Mr. HOLDWAY. In the open market, our cement masons make between $8 and $9, and our helpers make around $5 to $6, so we're talking about between $3 and $4, depending on the skill of our employee. We're a merit contractor also.

Senator NICKLES. So you may be talking about as much as an 80 percent increase in wages?

Mr. HOLDWAY. Yes, sir, as well as now replacing the mechanic or the cement mason on the same level as his helper, four. So it's very hard to put the men back in their proper positions, because, after all, the helper is to service the mechanic or cement mason.

Senator NICKLES. Which way do you go, then? Do you pay your helpers $4 more than normal, or do you have your cement masons doing helpers' work?

Mr. HOLDWAY. In this case, we're paying our helpers more. In some instances, we do kind of demean the mechanic, if you may, by having him do the helpers' work. It just depends on the availability of the labor force, the training of personnel, the knowledge of material, and the knowledge of the work at hand.

Senator NICKLES. You mentioned you're from a merit shop. If you were to put on the hat of a union shop where you're hiring from the union hall, would you do it the other way around? If you had to pay $9, would you get the cement masons, and so forth?

Mr. HOLDWAY. Yes, we would have to go—in this case, if we were a union contractor and we were working on this specific job and they told us we had to use a cement mason to do the helper's work, we could not go to the local for the laborer's union. We would have to go to the cement mason's union hall.

This is a little different from what we're talking about, but it does impact us, as far as money, as well as demeaning the employee.

Senator NICKLES. I appreciate that.

[The prepared statement of Mr. Holdway follows:]

MR. CHAIRMAN

MY NAME — ELMER D. HOLDWAY VICE PRESIDENT
MARSTELLER CORPORATION
A SMALL CONTRACTING FIRM
SOUTHWEST VIRGINIA

ACCOMPANYING ME: — WILLIAM FRANCIS "BILL" DANAHY
ENGINEER
MARSTELLER CORPORATION
WILL ADDRESS PROBLEM AT HAND

WE ARE HONORED TO APPEAR BEFORE THIS COMMITTEE TO REQUEST RELIEF FROM THE PERSONAL AND ECONOMIC IMPACT THAT DAVIS-BACON HAS ON OUR BUSINESS AS WELL AS ON OUR EMPLOYEES AND THEIR WELL BEING.

THE PROBLEM IS ONE THAT IS MORE INSIDIOUS THAN WAGES, RATHER IT IS ONE OF JOB CLASSIFICATION. WE NEED RELIEF --------.

MR. CHAIRMAN:

BILL DANAHY WAS DIRECTLY INVOLVED IN A RECENT ON JOB SITE MEETING IN WHICH WE WERE TOLD THAT WE COULD NOT HAVE ANY LABORERS ON THE PROJECT.

MR. CHAIRMAN, MY NAME IS BILL DANAHY. I AM AN ENGINEER FOR MARSTELLER CORPORATION LOCATED IN ROANOKE, VIRGINIA.

IN A RECENT PRE-CONSTRUCTION MEETING ON A DAVIS-BACON PROJECT, THE ARMY CORP. OF ENGINEERS REPRESENTATIVE ADVISED ME THAT WE COULD NOT USE THE LABORER CLASSIFICATION FOR OUR LABORERS BECAUSE THEY USE ELECTRIC POWERED EQUIPMENT.

THE CLASSIFICATION WE WERE TOLD TO USE CAN POTENTIALLY COST US VALUED EMPLOYEES THAT FOR A SMALL CONTRACTOR LIKE MARSTELLER CORP. WILL BE DIFFICULT AND COSTLY TO REPLACE.

WE HAVE PREVIOUSLY CLASSIFIED OUR SKILLED PEOPLE AS CEMENT MASONS AND OUR HELPERS WHO WORK UNDER THE DIRECTION OF THE SKILLED MAN, LABORERS FOR DAVIS-BACON GOVERNED PROJECTS. WE ARE NOW BEING TOLD TO CLASSIFY BOTH MEN THE SAME WITH THE SAME RATE OF PAY.

WE FORESEE THAT ONCE THE LABORER IS ELEVATED TO THE CEMENT MASON CLASSIFICATION, THE POTENTIAL FOR PERSONNEL CONFLICT BETWEEN THE SKILLED MASON AND THE LABORER MASON WILL EXIST.

THERE IS ALSO THE PROBABILITY THAT THE LABORER WILL QUIT WHEN HE IS REDUCED IN STATURE AND PAY ONCE HE IS MOVED TO AN UNREGULATED PROJECT.

MR. CHAIRMAN, MARSTELLER CORPORATION CANNOT AFFORD TO LOOSE GOOD PEOPLE JUST BECAUSE WE USE EFFICIENT EQUIPMENT TO MIX MORTAR RATHER THAN THE ANTIQUATED HOE AND SHOVEL.

IF WE CONTINUE TO CONTRACT DAVIS-BACON PROJECTS UNDER THE PRESENT THRESHOLD, OUR COMPETITIVENESS IN THE MARKET PLACE WILL BE SERIOUSLY INHIBITED.

MARSTELLER CORPORATION P.O. BOX 13229 • 1609 FRANKLIN RD. S.W. • ROANOKE, VIRGINIA 24032 • AREA 703 PHONE 344-8821

January 3., 1982

United States Senate
Committee on Small Business
Hearing Clerk
424 Russell Senate Office Building
Washington, D. C. 20510

Atten: Ms. Dorothy Olson

Gentlemen:

Marsteller Corporation is a small business firm with approximately two million dollars annual sales, located in Southwest Virginia. We are speciality coatings applicators of chemical walls and floor and specifically the installation of conductive floors. We have been working at the Radford Army Ammunition Plant for the past twenty years and are working there at the present. We have worked and are working on numerous government funded projects for the Corps of Engineers, Department of Navy, and General Services Administration.

We have traditionally classified our field personnel as follows:

Mechanic - The Mechanic is the person who does the actual installation of the product. The mixed material is brought to the mechanic and he places it by spreading the material on the floor using a cement trowel. The mechanic grouts, sands , and applies a finish sealer to product for a finished product. The mechanic is responsible for knowing the complete installation process, including making a satisfactory installation and supervising his helper.

Helper - We work our field crews in pairs, one mechanic and one helper. The Helper is under the direction of the mechanic. His duties consist of bringing the mixed material to the work area and placing the material on the floor for the mechanic. The helper is responsible for keeping the work place clean and neat.

In one step of our installation, the mechanic sands the floor and is followed by the helper removing the sanding dust using a 15 gallon vaccum machine.

Field Superintendent - Our Field Superintendent is in charge and ultimately responsible for all field work. Due to our firm's size we are only able to have one field superintendent. This requires added responsibility be placed on the mechanic for job coordination and job progress.

In our work including our preivous projects at Radford Army Ammunition and other work subject to the Davis-Bacon Act, we have traditionally classified our Mechanic as Cement Masons and our Helpers as Laborers. We use the same classification when advertising for personnel.

In a recent pre-construction meeting held between ourselves, the general contractors's Quality Control representative, and the Army Corps of Engineer's inspector, we were advised by the Corps' inspector that we would not be able to classify our Helpers as Laborers on this project. The inspector told us that the classification of Common Laborer, the one that we have been using for many years at the Radford plant and elsewhere, could not be used since a Laborer was not allowed to use any electrically powered equipment. Since our Helpers use drill mixers to mix mortar and a vaccum to pick up dust, they were not eligible for the Common Laborer classification.

In an attempt to comply with the inspectors interpretation of the Davis-Bacon Act, we made an inquiry to the Corps of Engineers through the General Contractor, about the following classification found on Decision No: VA78-3073 relating to the Radford Army Ammunition Plant.

Mason Tender - We were advised that the Mason Tender was a person who mixes mortar using a hoe or shovel and brings the mortar to the Mason. Although our Helper was mixing mortar and bring to the Mechanic, he could not be a Mason Tender because we had automated our mixing process and were using electric drills(which, by the way, is standard for the industry).

Power Tool Operator - We were advised that the Power Tool Operator classification was not applicable to our situation because a Power Tool Operator uses pneumatic, air powered, tools - not electric tools; as we were using.

This exhausted the available classification on Decision No. VA78-3073 for the Radford Army Ammunition Plant that to us seem related to our Helpers function.

We next asked the General Contractor to inquiry as to what classification the Corps felt we should use. We were advised by the General Contractor that the Corps of Engineer's Labor Representative in Norfolk, Virginia had determinded that we should use the Cement Mason classification for our helpers.

This determination is not acceptable to Marsteller Corporation as it requires us to classify two distinct levels of labor the same. We can foresee morale problems since our Helpers are under the supervision of the Mechanic and we are now being told to give them both the same classification. Our bookkeeping will be greatly affected since there are times the Helper will be doing work that could be classified as 'Common Laborer', Mason Tender', etc.

The General Contractor has advised that there is little we can do regarding this classification. We can make a request for authorization of different classification - Form 1565. This request, however, is meant for situation where a work function is not applicable to classification provided on VA78-3073. In most instances the VA78-3073 classification are used.

We have contacted two other firms similar to ours in the mid-atlantic area about their classification under Davis-Bacon. One firm indicated that they were using the same classification that we were using Mechanic-Cement Mason, Helper - Common Laborer. The second firm has recently encountered the same problem we now have on some of their government funded work.

The Davis-Bacon Act is severely impacting Marsteller Corporation due to the classification problem. The problem at present is undue harassment in that we are being told to classify our personnel wrongly resulting in impacted cost both present and future.

We trust that you will favorably receive our written statement and that this statement will assist you in correcting one of the defficiencies of the Davis-Bacon Act and its administration.

Respectively submitted,

Elmer D. Holdway

Elmer D. Holdway,
Vice President

Francis W. Danahy Jr.

Francis W. Danahy, Jr.
Engineer

Senator NICKLES. I think what Mr. Roush and Mr. Downey primarily alluded to was an increase in threshold from $2,000 to $1 million, and I think it was in your testimony that you said that would make 85 or 90 percent of the contracts exempt. Do you have any figures for what that would do if it was increased to $500,000, $250,000, $100,000? Have you broken that down?

Mr. DOWNEY. I have on our model, which we'll introduce. The small contractor would control 75 percent of the contracts and 10 percent of the dollars, and the large contractor would control 25 percent of the contracts and 90 percent of the dollars at the $500,000 threshold versus the $1 million.

Mr. ROUSH. In addition, Mr. Chairman, the back of table 1 in my testimony has the number of contracts in—it looks like—$15,000 increments from $10,000 up to $1 million, so that you can get the percentage for just about any level you wanted, based on that table.

Senator NICKLES. We appreciate that.

One additional question. Mr. Downey, is it true that if the threshold was increased to $1 million and a total contract was for $1.1 million, that even though each individual subcontract may not be in excess of $100,000, that all would have to comply with Davis-Bacon anyway?

Mr. DOWNEY. That's true.

Senator NICKLES. So, even though the individual subcontract might be $60,000, it is still mandated to comply, as are all the subcomponents, if the total subcomponents exceed the threshold amount?

Mr. DOWNEY. That's correct. And what we're saying is that we have to put a line somewhere, now, if we're going after this concept of raising the threshold, and there's going to be a gray area wherever that line is put, where some of the large contractors are going to fold over into the small contractors' side and vice versa.

But if you go over the line, I would conceive that all subcontractors would be restricted to the Davis-Bacon, which the general contractors would be.

Senator NICKLES. All right.

Gentlemen, we thank you very much for your input and the personal experiences that you've shared with us today.

Mr. ROUSH. Thank you, Mr. Chairman.

Mr. BROWN. Thank you.

Mr. DOWNEY. Thank you, Mr. Chairman.

Senator NICKLES. The next panelist that we have today is William Chapple from Johnstown, Pa.

Mr. CHAPPLE. Good morning, Senator.

Senator NICKLES. Good morning, Mr. Chapple. I understand that you have a plane to catch, and I can tell you also that we're in session, so we're going to be trying to move as quickly as possible.

Your statement will, of course, be entered into the record in full as if read, and so you may make any comments that you wish to.

Mr. CHAPPLE. Yes, Senator.

STATEMENT OF WILLIAM M. CHAPPLE, PRESIDENT, WILLIAM M. CHAPPLE, INC., JOHNSTOWN, PA.

Mr. CHAPPLE. First, I'd like to say that I appreciate very much the opportunity to testify as a small business independent contractor.

Our company was started back in 1920, and in the late fifties and early sixties, we became expanded into working in the heating, ventilating, and air-conditioning field. As mechanical contractors, we employ sheet metal workers, we employ pipefitters and we employ laborers, and a good portion of our work at one time had been conducted on those projects that required the Davis-Bacon regulations, both at the Federal and at the local level.

And testifying to the point of the Davis-Bacon regulations, I think that at the outset I must say that considering outright repeal of the Davis-Bacon regulations would be catastrophic to those small businesses who had structured their businesses for the last 50 years working under these regulations.

I don't contest the fact that these regulations, like any other regulations of this vintage, need to be periodically reviewed and they need to be streamlined, but I think we have to be very careful in how that is done, in order to preserve businesses who have their entire life savings involved.

And, Senator, I really believe that the original precept around which the Davis-Bacon regulations were promulgated are just as valid today as they were back in 1930. Now, granted, our economic conditions are completely different now, but those precepts basically were to provide quality construction to public work by skilled workmen at a fair, competitive market.

And I think it would be very unfair to expose people who have been structured in that competitive market to be forced to compete with quality contracting expertise and skilled workmen against other contractors bidding the same work with less skilled workmen or, to some extent, maybe even unskilled workmen.

As far as the threshold limit is concerned, I think the reason for the threshold limit was to determine a level below which the work was incidental enough as to not require highly skilled workmen at the project site. Naturally, $2,000 will not buy much today, so I can agree that this threshold needs to be increased.

However, in increasing that threshold, I think we have to be aware of the fact that there is a direct impact on the contractor with respect to the level at which it is going to be elevated, if indeed it is. It will make those people who are used to bidding in those levels of construction much less competitive.

To illustrate the point, I would like to go back to an incident that happened in my home State just a few months ago. A commonwealth court decreed that a particular type of construction that formerly had been done under the little Davis-Bacon or Prevailing Wage Act was no longer under that regulation, and the next job that came out for bid, instead of drawing the five or six bidders that this type of construction normally draws, drew in excess of 20 bidders.

Some of the bidders could not even furnish a bid bond, let alone a performance bond for satisfactory completion of the work, other

bidders could not even properly fill out the bid documents, and, naturally, the spread in bid prices was considerable. But, again, I think for the sake of the public and taxpayer, cheap is not always best.

I would like to state my support for the administration's position regarding the Davis-Bacon regulations and concur that indeed they do need to be streamlined. I would like to see some consideration for elevating that threshold limit, and, again, I think we have to be very careful about how high it is elevated, so that we can preserve the integrity and the livelihood of small contractors like myself.

Thank you.

Senator NICKLES. Thank you, Mr. Chapple.

[The prepared statement of Mr. Chapple follows:]

TESTIMONY OF WILLIAM M. CHAPPLE

BEFORE THE SENATE SMALL BUSINESS COMMITTEE,

SUBCOMMITTEE ON GOVERNMENT PROCUREMENT

FEBRUARY 2, 1982

Thank you, Mr. Chairman. I want to thank you and the Committee for this opportunity to testify on behalf of small business construction contractors like myself.

I am William M. Chapple of Johnstown, Pennsylvania, owner and President of William M. Chapple, Inc., a small contracting firm originally established in 1920. My business consists primarily of sheet metal fabrication and installation for heating, ventilating and air conditioning systems and other specialty sheet metal work; pipe fitting and installation for heating, air conditioning and process piping and other related construction tasks. Since the early 1960's we have employed sheet metal workers, pipe fitters and laborers through collective bargaining agreements with the associated building trades unions. I should also point out that, by the definition of the Small Business Administration, my firm is clearly considered to be a small business enterprise.

During the last year and a half the construction industry has, as you know, suffered a serious recession. The volume of business done by my own company, for example, has been cut almost in half. Unfortunately, there does not appear to be any significant relief in sight within the immediate future.

As we all know, construction of federal, federally funded and federally subsidized projects and similar state funded construction projects have been built under the provisions of the Davis-Bacon Act for more than 50 years now. I firmly believe that the original precepts upon which the Davis-Bacon Act were promulgated are as viable today as they were when the Act first passed Congress; namely, to assure the

highest level of construction expertise and to prevent cut throat competition between qualified constructors with skilled craftsmen and less qualified contractors with less skilled laborers. The concept of the original legislation was to provide the general public with quality construction at a fair price.

The repeal of the Davis-Bacon Act would have the immediate effect of causing severe hardship for small union contractors in this country. Large union contractors on the other hand would not feel the immediate pinch of repeal because they could continue to pursue "mega bucks" projects that their merit shop competition has traditionally been unable to man. The real burden therefore would rest on the shoulders of the small union contractor like me. Eliminating the requirement to pay prevailing wages to skilled craftsmen would place the small union construction contractor in the untenable position of having to compete with contractors who could employ construction workers at any level of hourly pay regardless of their qualification or production capacity. But I realize this issue is not the question before the Committee this morning.

The Committee seeks input this morning with respect to the establishment of a new minimum threshold level for Davis-Bacon and the consequences such a new threshold will have on the small business community. At the outset let me stipulate that the $2,000 level established by Congress in 1931 is clearly out of date and in need of upward revision. The question is how much. It is my recommendation to the Committee, as one small businessman, that the establishment of a new threshold in the range of $8,000 - $10,000 would be reasonable. Upping the level beyond this range would, in my opinion, compromise the original intent of the Act -- that is,

to assure both quality workmanship and a fair wage on taxpayer-financed construction projects. Certainly the creation of the threshold level in the six digit range would have a delibitating effect on the small union construction contractor. In fact, I would like to impress upon the Committee that a positive and direct correlation exists between the threshold level and the number of small union contractors who will be able to remain in business. In other words, the elevation of the threshold to $10,000 will, I am sure, create a few bankruptcies; to $25,000 quite a few more; to $50,000 a pervasive and systemic problem would be created within the industry. Frankly, it is not always easy to be a union contractor given the nature of seemingly contradictory government regulation. Be that as it may, union contractors such as myself do not need and might not be able to survive the imposition of a Davis-Bacon minimum threshold which is clearly excessive. The issue is simple fairness. If the reasoning behind the Act is as valid today as it was in 1931 the challenge before you is to delineate a precise dollar amount where both contractural competition is assured and quality workmanship is guaranteed.

At the same time I should tell the Committee that I support many of the regulatory reform proposals currently being considered by the Department of Labor on this subject. Any piece of legislation which is 50 years old can and should be streamlined in the hope of making it more efficient. The Davis-Bacon Act is no exception. In fact, I believe in one primary area the Department of Labor's proposed changes do not go far enough. Specifically, I question the effectiveness of the Department's proposed one to five nonskilled versus journeymen ration. I believe that a more practical

ratio of one to one or one to two would provide a much more effective condition at the job site. I would also wonder why the ratio only comes into play where and when it has existed in the past. If it has prevailed in the area before it should certainly continue. However, if it has not prevailed in the area before it is probably needed even more.

Mr. Chairman I again express my gratitude for this opportunity to present my remarks to the Committee. I would like to reinforce my support for the Reagan Administration's position on supporting regulatory Davis-Bacon reform and preserving the statutory integrity of the Act as first passed in 1931. I shall be happy to answer any questions.

Thank you.

Senator NICKLES. You mentioned increasing the threshold. We've had some people who mentioned outright repeal of the law, which would have no threshold. We've heard the $1 million figure mentioned by our last panelists; the $100,000 figure mentioned by others; and there are probably other figures floating around. If legislation was to be proposed, what would you think would be a fair increase in the threshold?

Mr. CHAPPLE. Well, Senator, I think again we have to understand the economic climate in which we're doing work today. Many, many projects are in the retrofit and remodeling field, so I don't think we can consider threshold at those limits that would apply to the megabuck project, or the major construction industries.

In our area, we have to subsist on much smaller levels of work, and I think I could probably live with an $8,000 to $10,000 threshold, because this is going to be the level at which we're bidding, not only on the Federal level, but also on the State, and, again, the ripple effect coming down from actions taken by Federal are going to have a direct effect on the local legislations.

Senator NICKLES. Is your business primarily doing some heating and air conditioning type work, ventilation, and sheet work?

Mr. CHAPPLE. Right.

Senator NICKLES. Right now, the Department of Labor is making thousands of wage determinations every year. I guess what you're saying is you're used to working with those, and you're basically used to having them tell you what you should pay your people, is that correct?

Mr. CHAPPLE. When you say them, who are you referring to?

Senator NICKLES. The Department of Labor.

Mr. CHAPPLE. Department of Labor?

No, our people are hired under local collective bargaining agreements, and our wages are established under those agreements.

Senator NICKLES. Is there a close similarity between the prevailing wage rates as determined by DOL and the rates which you pay your people?

Mr. CHAPPLE. They're very close, yes.

Senator NICKLES. Very close. And if you compared your rates to the marketplace, union and nonunion, how do your rates compare to the marketplace?

Mr. CHAPPLE. Again, it's a relative question. If we're talking about the marketplace with respect to a particular skill of a craftsman, I think they're very equal. If you're relating to a skill of a trade at one skill level and the skill of the same trade at another skill level, then there is disparity, yes.

Senator NICKLES. We're talking about air conditioning work, heating, and ventilating. There is quite a bit of difference between your rates and the Department of Labor's prevailing rates, which are up in this neighborhood. What's the difference? Can you give me a percentage? Is it a 30-percent difference? We've heard that figure mentioned.

Mr. CHAPPLE. I don't think it's that much. I don't have specifics, but in my particular area, our rate for skilled craftsmen is approximately $17 an hour, and for unskilled crafts at the same trade—I shouldn't say unskilled, but unorganized at the same trade are in excess of $10 to $11.

Senator NICKLES. I can't decide if you're making an argument for repeal of the Davis-Bacon or against it. I'm almost hearing you say, "Don't repeal this, because this is protecting my business and some very high wage rates that can't compete if you withdraw the Davis-Bacon. If you withdraw Davis-Bacon, we're not going to be able to compete in the free market."

Mr. CHAPPLE. That's not quite true, Senator, because we are competing in a free market on those projects that are not under Davis-Bacon regulations, and still paying the same wage rate.

Senator NICKLES. You are competing. What percentage of the work you do is private versus what would fall under Davis-Bacon?

Mr. CHAPPLE. Right now, unfortunately, because of the recession in the construction industry, our workload is less than half of what we had 2 years ago, but 2 years ago when we were peaked, I would suspect that work done under a Davis-Bacon regulation and under the State Prevailing Wage Act would have accounted for probably 70 percent of our volume.

Senator NICKLES. So you'd use the work that you're receiving in the private sector, where you actually get out and compete with the other people, to supplement your public construction.

I am thinking of this one contract which you alluded to that was originally under Davis-Bacon where they only had a couple of contractors, and then after Davis-Bacon requirements were eliminated, they had a flood of contractors. Some of these contractors you mentioned weren't qualified or didn't have bonding requirements, but I'm assuming that probably some of them did.

I'm assuming, too, that the final contractor was somebody who came in lower than the original bid requirements under Davis-Bacon. Is that correct?

Mr. CHAPPLE. I would assume.

Senator NICKLES. Isn't increased competition usually healthy, if you somewhat believe in the private sector? I'm not saying that the lowest bidder is always the best thing. An example of that would be a contractor who would come in and make a low bid, say on the Hart Building, but had no expertise and couldn't actually put it together. But assuming you had a lot of people who were in the construction business bidding that competitiveness should keep the market price down for the consumer, wouldn't it?

Mr. CHAPPLE. Yes; and I have no problem with free competition, as long as it's fair and equal competition. And, again, I have to stress the point that unqualified contractors, as I alluded to before, who had no expertise in the construction industry were permitted to bid this work, with people with almost no skill, and——

Senator NICKLES. I'm not saying that every person who is made a contractor is a competent builder, but the person making that selection of a contractor probably considers a lot of things, doesn't he, besides just the dollar price? Among other things, you also consider quality and past services.

I doubt that too many people would go out and say to a contractor, "yes, you can build the Hart Building," without checking the credentials of that particular contractor. I would think that whoever is hiring that contractor to build the school or whatever would make sure the contractor is qualified before turning them loose.

I don't agree with this idea of saying, "Yes, I believe in the free marketplace, but we love having the Government come in and set the minimum rate for labor in construction, manufacturing, or any other area." Basically, there are two main variables that determine the project cost: Labor and materials. Many times, probably, in the heating and air-conditioning field, the materials are fairly constant from contract to contract, depending on volume and a few other things. So then, a sizable variable would be the labor force, their efficiency and ability to do the work, and the quality of the work they perform. If that was fixed, a lot of the competitiveness or ability to compete in those projects would be eliminated if the Government has said, "Here's what you're going to be paying your people."

It seems inconsistent to say that that would be a free market approach, I can understand that you've worked under these laws for some time, and I can see how they've somewhat protected your type of firm or a firm that's been under that, but, I also think that's a pretty good reason for making some changes that would allow that marketplace to work.

I won't detain you further. I know you do have a plane in the short future. I do appreciate your appearance before our committee.

Mr. CHAPPLE. Thank you, Mr. Chairman.

Senator NICKLES. Thank you, Mr. Chapple.

For all of our panelists today, we will be keeping the record open for some time. There may be additional questions requested by myself or other members of the committee.

For our fourth panel, we have Frank Griffo from Jacksonville, Fla.; Charles George from Merideth, N.H.; and Doug Cutchin from Fairfield, Maine.

Gentlemen, we welcome you.

Mr. Griffo, welcome. We appreciate your coming from Jacksonville, Fla., to be with us this morning, and please proceed.

Mr. GRIFFO. Thank you very much. It's an honor to be here.

STATEMENT OF FRANK P. GRIFFO, PRESIDENT, FRANK P. GRIFFO, INC., JACKSONVILLE, FLA.

Mr. GRIFFO. Mr. Chairman, I am Frank Griffo, as you know, president of Frank P. Griffo, Inc., from Jacksonville, Fla., a mechanical contracting firm, and we'll explain later on what we do.

The Davis-Bacon Act, as we know, requires that prevailing wages, as established by the U.S. Secretary of Labor, be paid on all Federal and federally assisted construction contracts in excess of $2,000.

The public has been made to believe that the essence of the act is to protect employees of the various construction crafts from being underpaid by unscrupulous contractors. Not wishing to prolong this testimony, suffice it to say that nothing could be further from the truth.

The act is not only inflationary, as will be borne out in my statement, but has through the years prevented the entry of the traditionally unemployed inner-city youth from entering the job market

in jobs that provide challenge, ambition and self-respect—the greatest of these, self-respect.

The act is purely and simply designed to grant more and more power to organized labor. As a sop to the unfortunately forced unemployables, organized labor surfaces periodically championing for them a minimum wage.

Taking the above into perspective, I believe that the Davis-Bacon Act adds an estimated 100 percent to labor costs. This does not include the psychological cost of human suffering, nor does it take into account the plight of the small businessman contractor who, because of the extra burdensome paperwork and unrealistic prevailing wage rate, has been driven from Davis-Bacon work.

In my case, I voluntarily decided some 12 years ago not to do Federal Davis-Bacon work. My philosophy is simply not compatible with the act's constraints, that is, inflationary costs, arbitrary job classifications and its dictatorial apprentice schooling requirements.

I have been in the mechanical end of the construction business for 30 years. Accordingly, only I am legally responsible for my work, regardless of whether I employ union labor, nonunion labor, or whether or not my employees have attended a Federal- or State-recognized apprentice program. I run a merit shop in the strictest application of the term.

Through these many years, I have brought into the industry young people who, for the most part, had no previous mechanical training—some with the most minimal formal school education. They all had one thing in common: They wanted to work, and they wanted to learn a trade.

My greatest pleasure through these years has come from their achieving recognition from their peers as skilled mechanics. Not only have they become journeymen, but several have become master mechanics and, at least in two instances, accepted as engineers. They received their training in my shop, not through federally mandated programs.

My mechanics are capable of pulling pipe, welding, soldering, rigging, fabricating, and installing ductwork, low and high voltage control systems, pouring concrete, grading, handling a shovel, brooming, and whatever else it may take to install the work.

Incidentally, my company has consistently been rated in the "A" category by concerned architects—pointing out what you mentioned earlier—engineers, general contractors, owners, the city of Jacksonville, and even "mainside," commonly referred to as the Jacksonville Naval Air Station.

Our volume runs between $500,000 to $1 million, depending upon who is playing with the prime rate. [Laughter.]

Last year, in 1981, our sales amounted to over $1 million, all in the open marketplace. The cost ratios for this work break down as follows—and I'll round off the numbers: Material, $764,000-plus; labor, $203,000-plus; subs, $36,000-plus; total, $1,004,000.

In the merit shop process under which I labor, the percentage of labor to the total contract cost was—not would be; these are not statistics; these came right out of my books—20.24 percent.

If this work were performed under Davis-Bacon—you can be sure that these figures cannot be contested wherein the contestant

would win—the percentage of labor would have been 48.5 percent, twice as much.

Under Davis-Bacon, labor costs would have been a minimum of 100 percent more than those incurred on private work, due to the 30-percent rule, and the journeyman-to-apprentice ratio requirements.

As an example, I offer the following: Davis-Bacon, four journeymen at $14 equal $56; one apprentice at $7 equal $7; total equal $63. Merit shop, one journeyman at $7 equal $7; five helpers at $5 equal $25; total cost equal $32.

The following ratios should be taken into account when budgeting federally financed projects: Under the merit shop, percentage of labor to materials should be figured at 26.61 percent. I had this down according to my computer, so we'll say 26.6 percent. Under Davis-Bacon, labor to material would be 53.25, roughly.

I mention that because it's easy for anyone who is not in the construction business then to determine—especially those in government—if they know they're going to buy $1 million or $1 billion worth of material, they'll know pretty much what it's going to cost them to do the work and put that material in place.

Thus, for every $1 billion spent on material for Davis-Bacon projects, the overcharge to the taxpayer approaches $266 million.

Mr. Chairman, if the threshold were raised from $2,000 to $1 million, I would still be doing business with the Federal Government. And my company, along with thousands of others in the construction industry, would be able to perform public construction projects in a more cost-effective manner and provide training and jobs to the traditionally unemployed.

Thank you very much, sir.

Senator NICKLES. Thank you, Mr. Griffo.

[The prepared statement of Mr. Griffo follows:]

STATEMENT BY FRANK P. GRIFFO

Mr. Chairman, I am Frank P. Griffo, President of Frank P. Griffo, Inc. of Jacksonville, Florida.

The Davis-Bacon Act requires that "prevailing wages" as established by the U.S. Secretary of Labor, be paid on all federal and federally assisted construction contracts in excess of $2,000.

The public has been made to believe that the essence of the Act is to protect employees of the various construction crafts from being underpaid by unscrupulous contractors.

Not wishing to prolong this testimony, suffice it to say, that nothing could be further from the truth.

The Act is not only inflationary, as will be borne out in my statement, but has through the years, prevented the entry of the traditionally unemployed inner-city youth from entering the job market in jobs that provide challenge, ambition and self respect - the greatest of these, self respect.

The Act is purely and simply designed to grant more and more power to organized labor. As a sop to the unfortunately forced unemployables, organized labor surfaces periodically championing for them a "minimum wage."

Taking the above into perspective, I believe that the Davis-Bacon Act adds an estimated 100% to labor costs. This does not include the psychological cost of human suffering. Nor does it take into account the plight of the small business man (contractor) who because of the extra burdensome paper work and unrealistic

prevailing wage rate has been driven from Davis-Bacon work.

In my case, I voluntarily decided some 12 years ago not to do Davis-Bacon work. My philosophy is simply not compatible with the Act's constraints, i.e. inflationary costs, arbitrary job classifications and its dictatorial apprentice schooling requirements.

I have been in the mechanical end of the construction business for 30 years. Accordingly, only I am legally responsible for my work regardless of whether I employ union labor, non-union labor, or whether or not my employees have attended a federal or state recognized apprentice program. I run a "merit shop" in the strictest application of the term.

Through these many years, I have brought into the industry young people who, for the most part, had no previous mechanical training - some with the most minimal formal school education. They all had one thing in common - they wanted to work and they wanted to learn a trade.

My greatest pleasure through the years has come from their achieving recognition from their peers as skilled mechanics. Not only have they become journeymen, but several have become master mechanics and, at least in two instances, accepted as engineers. They received their training in my shop, not through federally mandated programs.

My mechanics are capable of pulling pipe, welding, soldering, rigging, fabricating and installing ductwork, low and high voltage control systems, pouring concrete, grading, handling a shovel, brooming and whatever else it may take to install the work.

Incidentally, my company has consistently been rated in the "A" category by concerned architects, engineers, general contractors, owners, the city of Jacksonville, and even "mainside" (Jax Naval Air Station).

Our annual volume runs between $500,000 to $1,000,000, depending upon who is playing with the prime rate.

Last year in 1981, our sales amounted to over $1,000,000 - all in the open market place.

The cost ratios for this work breaks down as follows:

Material	Labor	Subs	Total	%Labor Merit	%Labor Davis-Bacon
$764,102	$203,323	$36,655	$1,004,080	20.24%	48.57%

Under Davis-Bacon, labor costs would have been a minimum of 100% more than those incurred on private work, due to the 30% rule and the journeyman-to-apprentice ratio requirements.

As an example, I offer the following:

DAVIS-BACON		MERIT SHOP	
4-journeyman @$14.00 -	$56.00	1-journeyman @$7.00 -	$7.00
1-apprentice @ $7.00 -	7.00	5-helpers @$5.00	-$25.00
	$63.00		$32.00

The following ratios should be taken into account when budgeting federally financed projects:

A-% labor to materials - 26.61%-Merit Shop
B-% labor to materials - 53.22%-Davis-Bacon

Thus, for every billion dollars spent on material for Davis-Bacon projects, the overcharge to the taxpayer approaches $266 million.

Mr. Chairman, if the threshold were raised from $2,000 to $1,000,000 then I would still be doing business with the federal government. And my company, along with thousands of others in the construction industry, would be able to perform public construction projects in a more cost-effective manner and provide training and jobs to the traditionally unemployed.

Senator NICKLES. Mr. George?

STATEMENT OF CHARLES GEORGE, PRESIDENT AND TREASURER, G2S CONTRACTORS, INC., MEREDITH, N.H.

Mr. GEORGE. Thank you, Mr. Chairman.

I appreciate the opportunity to be here today and present a few comments on the Davis-Bacon Act and the impact on the small contractor.

I'm president and treasurer of G2S Constructors, Inc., of Meredith, N.H. I've been in the industry about 20 years—a little bit more than 20 years, but I had to admit it and tell my children—but about 15 or more of those years were involved with other contractors whose work was primarily involved in Davis-Bacon projects. A substantial amount of that work was in the industrial waste treatment field.

I've had an opportunity over the years to observe some of the impacts on not only contractors, but on the public, of what the accelerated wage schedules, et cetera, can do to the industry.

My solution to the impact of Davis-Bacon would be to repeal the act, and I still hope we can hold that as a long-term goal. In the meantime, I would certainly support raising the limit to the order of magnitude of $2 million, rather than $2,000. In view of the increase in costs, inflation effects since 1931, and considering what the definitions of a small business contractor are today—$12 million in volume—the $2 million level would certainly enable a substantial amount of small businesses to escape the impact of Davis-Bacon.

Let me tell you a little bit about G2S Constructors, and then tell you of a very specific recent incident, to put these impacts into focus for you.

I started this company in 1978. From my experience in the public works market, one of my key goals was to get away from the public works market and get into working for private industrial firms. The key reason for that was Davis-Bacon, and the impact of it on the operation of the firm.

In 1978, when we started, Davis-Bacon work comprised about 50 percent of our workload. In 1981, Davis-Bacon made up about 2 percent of our workload. At the present time, we have no Davis-Bacon work and haven't had for about 9 months.

Our company essentially works with the process heavy manufacturing industries, paper industry, chemicals, metals, utilities. We're a general contractor. Our people are skilled in structural concrete, steel work, process piping, instrumentation, millright, rigging, et cetera, some of the higher technical construction skills.

Our volume is about $1.5 million a year, and our payroll is roughly $500,000.

I think you can see that the skills that we have could certainly apply to many public works projects, but we stay away from public works projects because of the Davis-Bacon impact.

Let me talk about some of those.

Our people work for us on a year-round basis. They're essentially permanent employees, and we strive to make it that way.

A key necessity in this industry is training of people, and this is terribly important for ourselves in a highly technical side of the construction industry.

We have two hourly pay classifications: Labor and skilled. A skilled worker basically encompasses the traditional classifications of carpenters, ironworkers, millrights, welders, operators, et cetera. Labor covers the traditional labor category, helpers and trainees.

We post wage rates for each of these categories in our private work. For example, at the present time, laborers are typically paid in the $6 to $8 per hour range, and skilled workers, $8 to $11 per hour. And they're paid within those ranges based on their expertise, experience, and productivity.

Last month, we were asked by a neighboring local contractor to prepare a subprice for him on the pumping station portion of a large sewer project in Wilton, N.H. Our price for that work was approximately $415,000. It involved 2,300 man-hours, or an eight-man crew for 8 weeks.

Interestingly enough, this project also demonstrated another impact of Davis-Bacon. The project was designed around a prefabricated pumping station, which probably reduced the onsite requirement for people by a factor of two to three, and I'm sure that one of the reasons for that is the fact that if it's prefabricated and it can be constructed in the manufacturing plant, it's not subject to Davis-Bacon wages, and therefore it's more economical.

The Davis-Bacon rates posted on that project were: Labor, $11.21 per hour; carpenter, $16.73 per hour; ironworker, $16.17 per hour; pipefitter, $15.65 per hour.

Those rates are 60 to 76 percent higher than the average rates we pay for similar work on private projects, and, in addition, you have to take into consideration that those are bare wage rates and don't include the add-ons for workmen's compensation insurance, which would add another $4 to $5 an hour.

I think this graphically demonstrates why we avoid Davis-Bacon work. I think it would probably take the wisdom of Solomon to decide which of our people are going to make up that eight-man crew, and how disruptive that can be to your personnel strategies and policies.

It would prevent us from paying individuals on the basis of skill or experience. It would preclude the use of helpers or trainees; there are no wage rates or categories for these classifications. It would increase paperwork on the project, and it would increase overhead costs because of the requirements for keeping track of wages and certified payrolls.

It is also important to me that Davis-Bacon reduces our ability to be competitive on a project. We're more cost-effective on private work, because our people can cross traditional craft lines and because we utilize helpers and trainees at appropriate wage levels and ratios.

Davis-Bacon takes away this advantage by requiring uniform wages and traditional craft designations. On Davis-Bacon work, our competitive edge becomes our ability to cut profits, and that's hardly a healthy approach to survival today.

As you said before, you have constant materials and you have constant wages. That leaves only one thing. I think it was Peter

Drucker who said that profits are extremely important to a healthy industry.

I'm sure it's obvious to you why we avoid Davis-Bacon projects. This Wilton, N.H., example is just one of many examples of the act on the small contractor.

I think the Federal Government could be improving the environment that we operate in by taking away artificial criteria which limit our opportunity to compete in any market that we are qualified to work in.

Just as important to me is the impact of Davis-Bacon on the Federal, State, and local governments. Our industry association, the Associated Builders & Contractors, has pointed out the escalation of construction cost due to Davis-Bacon wages. You should also consider the cost increase because of reduced competition when contractors like ourselves choose not to compete for Federal projects.

Proponents of Davis-Bacon claim that the act protects owners from poor workmanship and unqualified contractors. They claim it protects employees from substandard wages.

We're all aware that there have been a significant number of laws and regulations put into place since 1931 dealing with wages, dealing with Government procurement activity in terms of qualification of contractors, that is, performance and payment bonds and bid bonds, as well as specifications which determine the technical characteristics of the work.

I would certainly appreciate your efforts, at this point, to lift the limit on Davis-Bacon work so that contractors like myself can bid on projects up to at least $2 million in size and open up another market to us and reduce the impact of this act.

Senator NICKLES. Thank you, Mr. George.

[The prepared statement of Mr. George follows:]

STATEMENT BY CHARLES GEORGE

Mr. Chairman, I am Charles George, president and treasurer of G2S Constructors, Inc. of Meredith, New Hampshire.

I certainly appreciate the opportunity to present these comments on the Davis-Bacon Act to you and your committee members.

Throughout my twenty years in construction, I have observed first-hand the impact of this Act on our industry.

Prior to starting G2S Constructors, Inc., I was with a firm specializing in construction of sewage treatment plants. These projects came under the Davis-Bacon Act.

G2S began operations in 1978. One of our goals was to do as much work as possible in the private industrial market and avoid public works projects if at all possible. A key reason for this decision was the Davis-Bacon Act.

In 1979, Davis-Bacon projects comprised 50% of our workload. In 1981, Davis-Bacon projects made up 2% of our billings, and we have not done any Davis-Bacon work at all for the past nine months.

I would like to describe our company to you in some detail and then relate a very recent incident that graphically demonstrates the impact of Davis-Bacon.

We are a general contractor. The majority of our work is for the process industries - paper, chemicals, metals and utilities. We work primarily in the New England states and northern New York.

Our volume is approximately $1.5 million per year; our payroll is approximately $500,000 per year.

Our people are skilled in structural concrete and steel, process and steam piping, millright, and rigging as well as instrumentation and control work.

A substantial number of our employees work for us on a year-round basis. They typically have several skills and work in several of the above disciplines.

We have two hourly pay classifications; labor and skilled. A skilled worker would include the traditional classifications of carpenter, ironworker, welder, millright, and operator erectors. Labor includes the traditional laborer category, as well as helpers for the various skilled categories.

We post a wage rate range for each of these categories. For example; $6.00 to $8.00 per hour for labor and $8.00 to $11.00 per hour for skilled.

Individuals are paid within these ranges based on experience, skill and productivity.

Training is important in our industry. This wage structure offers an incentive to individual growth and skill development.

Last month, we were asked by a local contractor to prepare a price for the pumping station portion of a large sewer line project in Wilton, New Hampshire. We agreed to do this because we wanted to test our assumptions about the public market in terms of profitability and the Davis-Bacon Act impact.

Our price for the pumping station was approximately $415,000. The work involved 2,300 man-hours or an eight-man crew for eight weeks.

The Davis-Bacon rates were:

Labor	$11.21/hr.
Carpenter	16.73/hr.
Ironworker	16.17/hr.
Pipefitter	15.65/hr.

These rates are 60% to 76% higher than the average rates we pay for similar work on private industrial projects.

I believe this graphically demonstrates why we avoid Davis-Bacon projects. Consider the impact on our personnel if we were low bidder. A 60% to 76% pay differential would be extremely disruptive. There is no rationale or equitable way to select eight individuals for this assignment.

The specified rates would prevent the use of helpers or trainees. There are no categories for those classifications.

Because our people have a variety of job skills, the Davis-Bacon rate structure significantly increases paperwork on the job. A supervisor must keep track of what type of work an individual does in addition to the number of hours and appropriate wage rate for that type of work.

Davis-Bacon increases overhead costs through reporting requirements for certified payroll records.

Davis-Bacon reduces our ability to be competitive on a project. We are more cost effective on non-Davis-Bacon work because our people can cross traditional craft lines and because we utilize helpers and trainees at appropriate wage levels. Davis-Bacon removes this traditional advantage by requiring uniform wages and traditional craft designations. On Davis-Bacon work the contractors competitive edge becomes his ability to cut profits -- hardly a healthy approach to survival in today's economy.

I believe the federal government should be improving the environment for small business rather than imposing artificial criteria which limit our opportunity to compete in any market we are qualified to work in.

Just as important to me is the impact of Davis-Bacon on federal, state and local governments. Our industry association, the Associated Builders and Contractors, has pointed out the escalation of construction cost due to high Davis-Bacon wages. You should also consider the cost increase because of reduced competition when contractors choose not to compete for these projects.

The proponents of Davis-Bacon claim that the Act protects owners from poor workmanship and unqualified contractors. They claim it protects employees from substandard wages.

There have been a significant number of laws and regulations put in place since 1931 that deal more effectively than Davis-Bacon with wages, working conditions, and government procurement activity without the disruptive effects of Davis-Bacon.

Mr: Chairman, Davis-Bacon currently applies to federally aided projects over $2,000 in size. I believe a giant step could be taken towards improving the business climate for the small contractor if this limit were raised to $2 million. As a small businessman and a taxpayer, I urge you to consider this change.

Senator NICKLES. Mr. Cutchin?

STATEMENT OF DOUGLAS CUTCHIN, PRESIDENT, SHERIDAN CORP., FAIRFIELD, MAINE

Mr. CUTCHIN. Thank you very much, Senator Nickles, for giving us this opportunity to present our views.

I'm going to follow Charlie's testimony up with a more general view, but I agree with everything he says.

I'd like to state that the companies—because I'm familiar with them all—that we represent are quality companies. We turn out a good product. We have skilled people who have been with us for years and years. The average term of employment for the people who have been with us in the craftsman category is in excess of 7 years. If we weren't competitive, we certainly wouldn't have people around for that long.

My name is Doug Cutchin. I'm president of the Sheridan Corp., a general contractor doing both bid work and negotiated design build projects in the State of Maine.

The Sheridan Corp. was incorporated under the State of Maine laws in 1947 and has operated continuously, and more or less profitably, to the present. Our annual volume is approximately $6 million. We employ 15 office staff and a permanent field force of about 60 to 70 people, and that remains quite constant because we try to program our work.

It has been a matter of company policy since 1961 to employ the superintendents, foremen, craftsmen first class, and craftsmen second class on a 52-week-per-year basis. We have substantially failed to adhere to this policy only once, and that was during the recession of 1975, referred to in Maine as the great depression.

We seek stability and permanence in our field staff to assure predictability of project costs and qualify for both our company and for our clients.

Our craftsmen generally have multitrade capabilities. Their rate of pay is directly related to their proficiency level and the number of trade skills they possess.

And I'd like to state that over and over again I hear the charge that a man must have one trade to be skilled, and I flatly refute that. Our most skilled people tend to be carpenters, and they also tend to be excellent sheet metal workers and, lo and behold, they're good ironworkers. And you can do all three trades, and you can be highly proficient in all three. As a matter of fact, we find that if a man is restricted to one trade, he's not normally the best man in that trade. In our company family, an ironworker is almost always a skilled sheet metal worker as well.

A craftsman is paid one hourly rate, no matter what task he is performing on the job. Unfortunately, the Federal Davis-Bacon Act makes this very sensible approach to construction all but impossible on Federal projects. A man must be paid a different rate for every trade classification in which he does work.

On many projects, a craftsman oftentimes is doing two or sometimes even three or four trades off and on all day. This can create a bookkeeping nightmare. In the past, our company has solved this problem by simply paying the craftsmen the trade with the highest

rate rated on the job. This simplifies recordkeeping for us, but inflates the total dollar cost we estimate to do the work, altogether not a very satisfactory way of doing business, at least from our point of view.

Davis-Bacon work also causes other problems for contractors who do both private work and Federal work. Parenthetically, let me say that most Maine contractors could not exist solely on Federal projects. The problem arises when a company like Sheridan, with eight permanent crews, is awarded a Federal project and then must select a crew to favor with the higher wage rate project.

Another interesting fact is the published Federal wage rates for Somerset County, Franklin County, Kennebec County, and for that matter any other Maine county never contained any of our company's wages until late 1978. This was due to the fact that we had never been surveyed, even though we had requested that we be allowed to factor our rates into the wage determinations. This is very curious, since we have historically been one of the largest employers of ironworkers and sheet metal workers in those counties.

Since 1979 we have been periodically included. However, since the 30-percent rule is applied, a Boston-biased rate is always selected. This is because the paper industry has had major union-agreement projects in progress during the entire latter half of the 1970's and into this decade.

However, that construction does not reflect a majority of the construction work done in Maine, nor are the rates paid on these projects economically sustainable for the medium- to small-size manufacturing and commercial construction user sector of the Maine economy.

Why shouldn't Federal projects under Davis-Bacon reflect the prevailing rate for the local economy as a whole, rather than just one sector of that economy?

Another major problem faced by all contractors doing Davis-Bacon work, and especially small business contractors without a large office staff is the wage-reporting system of vouchers, affidavits, and other forms for all persons working on a project.

Even after a laborer or a craftsman has finished his portion of a project—and the project may be of very great, long duration—records are filled out each reporting period—and, normally, that means every week—for every laborer and every craftsman who has ever worked on that project.

As an example, we built two separate radar stations for General Electric in 1976. The paperwork mandated by the Air Force required one office person 2 days plus per week to keep up with the required paperwork.

Time was not the only inflated item on this project. The labor cost for the general contractor's work—and somebody pointed out here that sometimes that can be as low as 10 percent, so that there is a lot of other labor not reflected in this figure—for this station built in Moscow, Maine, was $50,255, not a very big project. If we had built the same project for a private firm, the labor cost would have been $33,400—a difference of more than 56 percent.

Another current example is the Sandy River Nursing Care Center in Farmington, Maine, located in Franklin County. The project was bid on January 22, 1982. The wage rates for that proj-

ect inflated one company's estimated labor costs from $101,594 to $161,887—a difference of more than 59 percent.

The contractor who supplied this information to me was Contractors Group, Inc. of Augusta, Maine. The rates listed for this project are mainly well above the true prevailing rate for the county. For example, an ironworker's rate, plus fringes, is listed at $14.24 per hour under Davis-Bacon. Our comparable private sector is $7.25 per hour.

And so it goes until you hit the painting rate, which is listed at a $4 per hour. How that ever got determined, I don't know. I would rather see the private marketplace determine those things.

Another interesting point is that this $4 rate was the exact rate that the mini-State Davis-Bacon rate called for in 1974. I don't think they're doing a very good job.

We have nobody that is paid that low a rate. Therefore, when estimating the painting, I would say that all contractors who bid this job would have had to carry their own in-house rates.

In short, Davis-Bacon inflates Federal project costs, imposes unnecessary paperwork and recordkeeping, and causes needless dissension among permanent crews of companies doing both Federal and private work. True life conditions of all these conditions abound.

As a small contractor, I would like to see Davis-Bacon repealed for all the reasons I have stated. However, if this is not politically possible, I would like to recommend that Congress eliminate the paperwork requirements and radically raise the minimum dollar threshold of projects subject to the Davis-Bacon Act. A figure of $2 million would seem reasonable to me.

The small contractor needs to be allowed the freedom to compete for Federal work for which he is qualified, without being fettered by Davis-Bacon requirements.

The Sheridan Corp., even though we have never failed to record a profit on a Davis-Bacon project, has not bid any Davis-Bacon general contract work for the last 4 years. This no-bid policy has been a direct result of enormous administrative redtape we see as being part and parcel of the Federal Davis-Bacon Act.

Thank you very much for our chance to present our views.

Senator NICKLES. Thank you, Mr. Cutchin.

[The prepared statement of Mr. Cutchin follows:]

STATEMENT OF DOUGLAS CUTCHIN

Mr. Chairman, I am Douglas Cutchin, President of the Sheridan Corporation, a general contractor doing both bid work and negotiated design build projects in the State of Maine.

The Sheridan Corporation was incorporated under State of Maine laws in 1947 and has operated continuously, and more or less profitably, to the present. Our annual volume is approximately $6 million. We employ 15 office staff and a permanent field force of between 60 to 70 persons.

It has been a matter of company policy since 1961 to employ the superintendents, foremen, craftsmen first class, and craftsmen second class on a 52 weeks per year basis. We have substantially failed to adhere to this policy only once -- during the recession of 1975. We seek stability and permanence in our field staff to assure predictability of project costs and quality for both the company and our clients.

Our craftsmen generally have multi-trade capabilities. Their rate of pay is directly related to their proficiency level and the number of trade skills they possess. In our company family, an ironworker is almost always a skilled sheet-metal worker as well. A craftsman is paid one hourly rate no matter what task he is performing. Unfortunately, the federal Davis-Bacon Act makes this very sensible approach to construction all but impossible on federal projects. A man must be paid a different rate for every trade classification in which he does work. On many projects, a craftsman often times is doing two trades off-and-on all day. This can create a bookkeeping nightmare. In the past, our company has solved this problem by simply paying the craftsmen the trade with the highest rate. This simplifies recordkeeping for us but inflates the total dollar cost we estimate

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to do the work - not a very satisfactory way of doing business.

Davis-Bacon work also causes other problems for contractors who do both private work and federal work. Parenthetically, let me say that most Maine contractors could not exist solely on federal projects. The problem arises when a company like Sheridan, with eight permanent crews, is awarded a federal project and then must select a crew to favor with the higher wage rate project.

Another interesting fact is the published federal wage rates for Somerset County, Franklin County, Kennebec County, and any other Maine county for that matter, never contained any of our company's wages until late 1978. This was due to the fact that we had never been surveyed, even though we had requested that we be allowed to factor our rates into the wage determinations. This was very curious since we have historically been one of the largest employers of ironworkers and sheetmetal workers in those counties. Since 1979, we have been periodically included. However, since the 30 percent rule is applied, a Boston-biased rate is always selected. This is because the paper industry has had major union-agreement projects in progress during the later half of the 1970's and into this decade. However, that construction does not reflect a majority of the construction work done in Maine. Nor are the rates paid on these projects economically sustainable for the medium and small-size manufacturing and commerical construction users sector of the Maine economy. Why shouldn't federal projects under Davis-Bacon reflect the prevailing rate for the local economy as a whole, rather than just one sector of that economy?

Another major problem faced by all contractors doing Davis-Bacon work, and especially small contractors withour large office staff, is the wage reporting system

of vouchers, affadavits, and other forms for all persons working on a project. Even after a laborer or craftsman has finished his portion of a project, records are filled out each reporting period for every laborer and craftsman that has ever worked on the project.

As an example, we built two separate radar stations for General Electric in 1976. The paperwork mandated by the Air Force required one office person two days-plus per week to keep up with the required paperwork. Time was not the only inflated item on this project. The labor cost for the general contractor's work for the station built in Moscow, Maine was $50,255. If we had built the same project for a private firm, the labor cost would have been $33,400 - a difference of more than 56 percent.

Another current example is the Sandy River Nursing Care Center in Farmington, Maine located in Franklin County. The project was bid on January 22, 1982. The wage rates for that project inflated one company's estimated labor costs from $101,594 to $161,887 - a difference of more than 59 percent. The contractor who supplied this information was Contractors Group, Inc. of Augusta, Maine. The rates listed for this project are mainly well above the true prevailing rate for the county. For example, an ironworkers' rate, plus fringes, is listed at $14.24 per hour. Our comparable private sector rate is $7.25 per hour - and so it goes until you hit the painting rate which is listed at a flat rate of $4.00 per hour. We have nobody that is paid that low a rate. Therefore, when estimating painting, most contractors who bid this job would have to carry their own in-house rates. In short, Davis-Bacon inflates federal project costs, imposes unnecessary paperwork and record-keeping, and causes needless dissension among permanent crews of companies doing both federal and private work. True life examples of all these conditions abound.

As a small contractor, I would like to see Davis-Bacon repealed for all the reasons I have stated. However, if this is not politically possible, I would like to recommend that Congress eliminate the paperwork requirements and radically raise the minimum dollar threshold of projects subject to the Davis-Bacon Act. A figure of $2 million would seem reasonable to me. The small contractor needs to be allowed the freedom to compete for federal work, for which he is qualified. without being fettered by Davis-Bacon requirements.

The Sheridan Corporation no longer bids on federal Davis-Bacon work because of the problems it has encountered in the past.

Mr. Chairman, thank you for this opportunity.

Senator NICKLES. I'll ask a couple of questions to anyone on the panel.

It was brought up earlier in testimony that if there weren't Davis-Bacon laws, quality would suffer because there wouldn't be the same quality of skilled craftsmen doing the various types of functions. Would any of you care to make a comment on that?

Mr. GRIFFO. I'd like to address that question, because I answered it in my testimony.

Again, I heard that testimony you're referring to, Senator, but I think that cannot be vouchsafed for under any conditions.

I have stated in my testimony that we are considered to be a class A firm in Jacksonville, Fla., which means that we perform not only as good but better work than most other firms who claim that, perhaps because they're organized or whatever, they know the crafts better than we do. That has been stated in testimony.

Senator NICKLES. What type of qualifications or requirements have to be met before a Davis-Bacon project or, let's say, a public project can be done? Are there bonding requirements made? Does the contracting agency go out and check past records and see that performance standards have been made before? Do any of you care to address that?

Mr. CUTCHIN. You have to file—as a matter of fact, most private firms require generally the same thing—you have certain bonding requirements, which supposedly are suppose to qualify the contractors. In all of the projects we've been involved with—which, believe it or not, even under Davis-Bacon, have been design-built—you've had to list your design capabilities, the number of years that your registered people have been registered, and the number of years you've been doing this kind of work.

You can get a lousy merit shop contract, and you can get a lousy union contractor, and you can get good of both. I do not think that the Davis-Bacon Act, however, assures you of one or the other.

Basically, it has got to be written into the bid procedures and to the good judgment of the contracting officer. If you don't set those qualifications up—and they have nothing to do with Davis-Bacon—then I don't care what wage rate you set, you do not assure yourself of a quality level of work.

Senator NICKLES. Davis-Bacon, in and of itself, really has nothing to do with, quote, the quality of work to be performed, is that correct?

Mr. CUTCHIN. I am dead sure of it.

Senator NICKLES. OK.

Mr. GEORGE. I think that's very true, Senator. I think quality of work is determined by technical specifications telling what the owner, the architect, or engineers wanted in terms of quality levels. It has nothing to do with wages.

Senator NICKLES. I think that's an argument that we hear on both sides, so I appreciate your comments. That was a good statement.

Mr. George, you mentioned the fact of not having a category for helpers. Could you explain that? Also, the administration in their guidelines or administrative proposals for change called for a helper classification with the qualification that the ratio could not

exceed one to five, there wouldn't be more than one helper to five journeymen. Do you have any comments on that?

Mr. GEORGE. I certainly do. I think it's admirable that they recognize that helpers are out there and that they're being used, but I think the ratio is off, where they talked about a ratio of 5 journeymen to 1 helper. In reality, in our work, we find very often it's 1 to 1 now.

Senator NICKLES. Is that depending on what type of construction work you do?

Mr. GEORGE. Depending on what type of work you're involved in. And, again, I think that if they wish to put a cover category in there, they should bring the ratio down to what the reality is.

Senator NICKLES. Should there be a ratio or should the prevailing business practice dictate?

Mr. GEORGE. I think that's the answer to it, is just to not have a ratio.

Senator NICKLES. Mr. Griffo, did you have something you wanted to add to that?

Mr. GRIFFO. I was going to concur with that. I think that that ratio relationship is just something that has been concocted out of the thin air and put on paper. Our people, as I mentioned, are helpers, they are mechanics, they will do anything that has to be done and do it professionally, and I could put five people out there to help one journeyman, but who's to say he's a journeyman?

Other types of legislature do that in the various counties and the various States. There are some States and some counties that don't have any requirement. You don't have to go about with a card in your pocket saying you're a journeyman mechanic or a master mechanic. We did not have that when I got into business.

Senator NICKLES. Do you find in business that with these types of requirements, it does discriminate against the unskilled and unemployed entering into the job market?

Mr. GRIFFO. Absolutely. Let me take you back to Florida. In 1979, the State of Florida repealed the prevailing wage law. I don't know whether you're aware of that or not. The State of Florida is one of the States of the 50 States, and if the people in the State of Florida didn't think too much of that law, then those who are against it must have some strength in their philosophy of the free enterprise market.

Now, within that, the Florida League of Cities, the Florida School Board Association, the State Association of County Commissioners, the Associated Industries of Florida, the Associated General Contractors of Florida—and that's an A.G.C. outfit which has been in the past in a relationship, a wedded relationship, with union scale wages—Florida Home Builders Association and the Associated Builders and Contractors of Florida, all of those people voted for the repeal of Davis-Bacon or federally or State mandated prevailing wages.

Let me go further. April of last year, the city of Jacksonville tried to pass a little Davis-Bacon Act in Jacksonville, Fla. It was withdrawn.

So what are we saying? We're saying the time has come to where it's been proven to be an excessive burden on the taxpayer to continue to follow that trend, pure and simple.

Senator NICKLES. Thank you, Mr. Griffo. We appreciate your coming from Florida; Mr. George from New Hampshire; and Mr. Cutchin from Maine. You traveled a good distance, and we appreciate your sharing your experiences before this committee. Thank you.

Mr. CUTCHIN. Thank you.

Senator NICKLES. For our final panel today, we have Daniel Mundy and Terry Yellig, representing the AFL–CIO from Washington, D.C.

Gentlemen, we welcome you.

Mr. Mundy, do you care to take off?

Mr. MUNDY. Yes, sir.

STATEMENT OF DANIEL MUNDY, LEGISLATIVE DIRECTOR, BUILDING AND CONSTRUCTION TRADES DEPARTMENT, AFL–CIO, WASHINGTON, D.C.

Mr. MUNDY. Mr. Chairman, first of all, let me thank you very much for inviting me to appear today to testify in support of the Davis-Bacon Act.

My name is Dan Mundy, and I am legislative director of the Building and Construction Trades Department of the AFL–CIO.

Robert Georgine, president of the Building and Construction Trades Department, was unable to be present because of a prior commitment outside of Washington and, as a result, I've been asked to appear here today on behalf of the 4 million members of the 15 national and international unions affiliated with the Building and Construction Trades Department.

Appearing with me today is Terry Yellig, who is a member of the law firm of Sherman, Dunn, Cohen, Leifer & Counts, which is the general counsel for the Building Trades Department.

In addition to my brief oral remarks, we have a more detailed statement which we have submitted for the record.

Senator NICKLES. Thank you.

Mr. MUNDY. I want to discuss the value of the Davis-Bacon Act to small construction contractors and address the argument that such contractors would be better off if they were exempt from its coverage.

It has been argued that the Davis-Bacon Act discourages small contractors from competing for Government contracts because they cannot pay the high prevailing wages issued by the Department of Labor, and because the recordkeeping and reporting requirements are too burdensome.

Thus, it is argued that small contracts should be exempt from application of the Davis-Bacon Act by raising the coverage threshold of the act from its present $2,000 amount.

First, it is important that this subcommittee understand that the basic recordkeeping and reporting requirements with which construction employers must comply are already required by the Fair Labor Standards Act and the Copeland Anti-Kickback Act. The Davis-Bacon Act itself does not impose any additional recordkeeping or reporting requirements on construction contractors doing business with the Federal Government.

Consequently, the exemption of smaller contracts from the Davis-Bacon Act would not affect the administrative recordkeeping and reporting requirements of Government contracts because similar reports must be made in any event under other statutes.

It's fairly easy to get into the construction business because it requires ordinarily little fixed capital, and the necessary equipment can usually be leased, rather than purchased outright. As a result, construction firms are constantly being formed and dissolved.

The vast majority of these firms are responsible businesses, anxious to do the best job possible for their customers. There is, however, a small minority of contractors which are less reliable and less scrupulous. The ease of entry makes the industry vulnerable to disreputable contractors who can readily form and dissolve their businesses to suit their own purposes.

For the most part, private owners and developers are able to protect themselves from these disreputable contractors because they take into consideration factors such as the quality of the contractor's work on other construction projects, the timeliness of completion of past projects, the general reputation of the contractor for reliability and stability, and the ability of the owner or developer to work with the contractor in order to resolve problems which inevitably arise during any construction project. Frequently, private owners and developers select contractors whose estimates of the cost of construction are not as low as the competition because of these other factors.

The Federal Government, on the other hand, must by law accept the lowest bid submitted to perform its construction work. Unlike the private owner and developer, the Federal Government cannot select a contractor on any basis other than price.

Exemption of the smaller Government contracts from coverage by the Davis-Bacon Act would force reputable contractors to compete against unethical and unfair contractors who would employ unskilled workers for less than the prevailing wage in order to win such contracts. Such an exemption would have a disproportionate effect on small contractors who are more likely to compete for smaller contracts.

Exemption of smaller contracts from Davis-Bacon coverage would also tend to discriminate against small contractors because they are the most susceptible to the kinds of wage-cutting practices which the Davis-Bacon Act prohibits.

Moreover, the Davis-Bacon Act provides an equality of bidding opportunity to small contractors attempting to compete with larger contractors, which often gives the small contractor a competitive edge. Small construction firms are, as a rule, subject to more personal supervision and, as a result, are often better managed and more productive than their larger competitors.

The Davis-Bacon Act, by eliminating wages as a competitive factor, therefore places a premium on the qualities which many small construction firms possess and their larger competitors do not.

Thus, the Davis-Bacon Act not only helps protect small contractors from unfair competition by unscrupulous contractors, it also gives the smaller contractor an advantage over the larger contractor when competing for smaller contracts.

For these reasons, the Davis-Bacon Act is a positive contribution to the ability of small contractors to compete successfully for Government contracts.

Nevertheless, it has been argued by some that exemption of smaller contracts from Davis-Bacon coverage would give minority contractors a better opportunity to compete for such contracts. The argument is that minority contractors primarily employ minority workers, who will accept less than prevailing wages in order to obtain employment.

Yet this kind of exploitation of workers who, because of their economic and social circumstances, may be forced to accept lower wages in order to obtain employment is exactly what the Davis-Bacon Act is supposed to prohibit.

Thus, while exemption of smaller Government contracts from the Davis-Bacon Act might very well give this minority contractor a competitive edge, that advantage would be created exclusively at the expense of the minority workers, the group least able to carry such a burden.

Advocacy of a cutback in the application of the Davis-Bacon Act in the name of improving the prospects of minority contractors is a cynical argument which ignores the basic fact that minorities and women have sought and obtained employment in the construction industry because of the expectation of a fair standard of living.

To remove the protection of the act in order to permit competition on the basis of the contractors' ability to hire minorities and women at lower wages would permanently relegate such workers to the lower rungs of the economic ladder and undermine much of the gains they have made over the last 10 to 15 years.

What, then, would be the effect of exempting smaller contracts from this Davis-Bacon coverage? Although the impact of such an exemption is difficult to qualify precisely, it is clear that it would be significant.

Data from a 1974 interagency survey on the act indicate that 24 percent of the work force employed on Government contracts were employed on contracts totaling $50,000 or less. Even allowing for a decrease in the number of workers affected due to inflation over the last 7 years, it is clear that the impact of even exempting contracts of $50,000 or less from Davis-Bacon coverage would be substantial.

Despite this evidence, we have heard about various proposals to raise the jurisdictional threshold of the Davis-Bacon Act up to $25,000 or as much as $250,000—and we've heard today figures of $1 million and greater.

The impact of increasing the threshold of coverage to the various amounts discussed is graphically illustrated in the table which is attached to our written statement.

Essentially, proposals to raise the threshold of coverage, regardless of the amount, raise the issue of whether the Federal Government should support a double standard for its large and small construction contracts.

Experience has shown that it is the workers on small contracts who are most likely to be adversely affected by the competitive procurement process unless protected by the act.

It is also likely that an increase in the Davis-Bacon coverage threshold would result in construction procurement being artificially fragmented in order to evade the higher threshold amounts.

For all these reasons, the Building and Construction Trades Department opposes any increase in the threshold of coverage of the Davis-Bacon Act.

It is the position of the Building and Construction Trades Department that better management in the Labor Department to insure the issuance of accurate and timely prevailing wage determinations and vigorous enforcement of the act, accompanied by better management by the Federal contracting agencies of their procurement and enforcement responsibilities, can make the act work.

Mr. Chairman, this concludes our remarks, and Mr. Yellig and I will be happy to answer any questions that you or any other members of the subcommittee may have.

Thank you.

Senator NICKLES. Thank you, Mr. Mundy and Mr. Yellig. We appreciate your input.

[The prepared statement of Mr. Mundy follows:]

STATEMENT OF

DANIEL MUNDY, LEGISLATIVE DIRECTOR

OF THE

BUILDING AND CONSTRUCTION TRADES DEPARTMENT, AFL-CIO

Mr. Chairman and members of the Subcommittee:

Thank you very much for inviting me to appear today to testify in support of the Davis-Bacon Act.

My name is Dan Mundy, and I am Legislative Director of the Building and Construction Trades Department, AFL-CIO. Robert Georgine, President of the Building and Construction Trades Department, is unable to be present because of prior commitments outside of Washington and, so, he asked me to appear here today on behalf of the four million members of the 15 national and international unions affiliated with the Building and Construction Trades Department, AFL-CIO.

I want to discuss the value of the Davis-Bacon Act to small construction contractors and address the argument that such contractors would be better off if they were exempt from its coverage.

It has been argued that the Davis-Bacon Act discourages small contractors from competing for government contracts because they cannot pay the high prevailing wages issued by the Department of Labor and because the record keeping and reporting requirements are too burdensome.

Thus, it is argued that small contracts should be exempt from application of the Davis-Bacon Act by raising the coverage threshold of the Davis-Bacon Act from its present $2,000 amount.

Proponents of exempting small contracts from the Davis-Bacon Act base their support on an anticipated reduction in paperwork and

on their belief that it would give small contractors a better opportunity to compete for smaller federal contracts. Nonetheless, such an exemption would have adverse consequences for small contractors and their employees.

Exemption of Small Contracts Would Not Relieve Contractors of Their Recordkeeping and Reporting Requirements Under Other Federal Laws.

It is important that this Subcommittee understand that the basic record keeping and reporting requirements with which construction employers must comply are already required by the Fair Labor Standards Act and the Copeland Anti-Kickback Act. The Davis-Bacon Act itself does not impose any additional recordkeeping or reporting requirements on construction contractors doing business with the Federal Government.*/ All construction contractors are subject to the recordkeeping requirements of the FLSA. The

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*/ The Fair Labor Standards Act regulations contain almost identical recordkeeping requirements to the Davis-Bacon Act regulations, and like the Davis-Bacon Act require the retention of payroll records for three years. (See FLSA, 29 CFR. Part 516--"Records to be Kept by Employers"). Thus, even if the Davis-Bacon requirements are eliminated for contractors working on small contracts, their obligation to maintain and preserve payroll records for three years will continue by virtue of the requirements of the FLSA.

The additional requirement that contractors submit certain records to contracting agencies is imposed not by the Davis-Bacon Act itself, but by the Copeland Anti-Kickback Act, to assure the integrity of employee wages. The Copeland Anti-Kickback Act, 40 USC §276(c), is broader in coverage than the Davis-Bacon Act in two respects: first, it covers all employees on public works, rather than only mechanics and laborers; and second, it covers all construction work financed in whole or in part by federal funds rather than just construction contracts in excess of $2000, which is the current Davis-Bacon Act threshold.
(Continued on next page.)

requirement that contractors submit certain records to government contracting agencies is imposed not by the Davis-Bacon Act, as popularly believed, but by the Copeland Anti-Kickback Act, even though the Secretary of Labor has incorporated the Copeland Anti-Kickback Act requirements in the Davis-Bacon Act through regulation.

Consequently, exemption of smaller contracts from the Davis-Bacon Act would not affect the administrative recordkeeping and reporting requirements of government contractors because similar reports must be made in any event under these other statutes.

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*/ (Continued)

The Copeland Anti-Kickback Act provides basic and essential protection to workers on federal construction contracts by assuring that employees will not be coerced into making kick-backs of a portion of their pay by the use of "force, intimidation or threat of procuring dismissal or by any other manner whatsoever." Violators of the provisons of the Copeland Anti-Kickback Act are subject to a fine of $5,000 and five years in prison or both. Under regulations of the Department of Labor, contractors and subcontractors with contracts of $2,000 or more are required to file a weekly statement setting forth the amount of wages paid to employees and affirming that no illegal kickbacks or rebates have been made. (29 CFR Part 3) The reporting requirements under the Copeland Anti-Kickback Act serve a vital function in the enforcement of that Act as well as the Davis-Bacon Act.

The Copeland Anti-Kickback Act and the Davis-Bacon Act are meant to be read together. Currently, coverage of both Acts are almost coextensive because of the low Davis-Bacon threshold. Exemption of small contracts from the Davis Bacon Act would create a serious disjunction between the two statutes.

4

Exemption of Small Contracts Would Adversely Affect the Competitive Position of Small Contractors.

Most importantly, exemption of small contracts from Davis-Bacon coverage would have a significant adverse effect on the entry of small contractors into the construction industry.

It is fairly easy to get into the construction business because it requires little fixed capital, and the necessary equipment can usually be leased, rather than purchased outright. As a result, construction firms are constantly being formed and dissolved. In fact, at any given time, there are between 500,000 and 600,000 construction firms in business throughout the country. On the average, each employs fewer than 10 workmen.

The vast majority of these firms are responsible businesses, anxious to do the best job possible for their customers. There is, however, a small minority of contractors which are less reliable and less scrupulous. The ease of entry makes the industry vulnerable to disreputable contractors who can readily form and dissolve their businesses to suit their purposes.

For the most part, private owners and developers are able to protect themselves from these disreputable contractors because they take into consideration factors such as the quality of the contractor's work on other construction projects, the timeliness of completion of past projects, the general reputation of the contractor for reliability and stability, and the ability of the owner or developer to work with the contractor in order to resolve

problems which inevitably arise during any construction project. Frequently, private owners and developers select contractors whose estimates of the cost of construction are not as low as the competition because of these other factors.

The Federal Government, on the other hand, must, by law accept the lowest bid submitted to perform its construction work. Unlike the private owner and developer, the Federal Government cannot select a contractor on any basis other than price.

This makes it easier for fly-by-night contractors to go into business, hire semi-skilled and unskilled workers at low wages and successfully underbid reputable small contractors for government construction work.

The Davis-Bacon Act counterbalances the effect of the government's procurement law on contractors who want to do business with the Government and employ workers at the prevailing wage in their community. The Act, by requiring the payment of at least the prevailing wage in the area, eliminates wages as a factor in the competitive bidding process.

Exemption of smaller government contracts from coverage by the Davis-Bacon Act would force reputable contractors to compete against unethical or unfair contractors who would employ unskilled workers for less than the prevailing wage in order to win such contracts. Such an exemption would have a disproportionate effect on small contractors who are more likely to compete for smaller contracts.

Exemption of smaller government contracts from Davis-Bacon coverage would also tend to discriminate against small contractors because they are most susceptible to the kinds of wage cutting practices which the Davis-Bacon Act prohibits.

Moreover, the Davis-Bacon Act provides an equality of bidding opportunity to small contractors attempting to compete with larger contractors which often gives the small contractor a competitive advantage. That is, small construction firms are often better managed and more productive than their larger competitors. The Davis-Bacon Act, by eliminating wages as a competitive factor, thereby places a premium on the qualities many small construction firms possess which their larger competitors do not.

Thus, the Davis-Bacon Act not only helps protect small contractors from unfair competition by unscrupulous contractors, it also gives the smaller contractor an advantage over the larger contractor when competing for smaller contracts. For these reasons, the Davis-Bacon Act is a positive contribution to the ability of small contractors to compete successfully for government contracts.

Exemption of Small Contracts Will Adversely Affect Minority Workers

Nevertheless, it has been argued by some that exemption of smaller government contracts from Davis-Bacon coverage would give

minority contractors a better opportunity to compete for such contracts. The argument is that minority contractors primarily employ minority workers who will accept less than prevailing wages in order to obtain employment. Thus, according to this argument, minority contractors would have a competitive advantage based on their ability to hire workers at lower wages if they are not obligated to pay prevailing wage rates.

Yet this kind of exploitation of workers who, because of their economic and social condition, may be forced to accept lower wages in order to obtain employment is exactly what the Davis-Bacon Act is supposed to prohibit. Thus, while exemption of smaller government contracts from the Davis-Bacon Act might well give minority contractors a competitive edge, that advantage would be created almost exclusively at the expense of minority workers, the group least able to carry such a burden.

It's no wonder that a great many organizations representing the interests of minorities and women such as the NAACP, the Navajo Nation, the National Women's Political Caucus and the A. Philip Randoph Institute have voiced support for the Davis-Bacon Act.

Advocacy of a cut back in the application of the Davis-Bacon Act in the name of improving the prospects of minority contractors is a cynical argument which ignores the basic fact that minorities and women have sought and obtained employment in the construction industry because of the expectation of a fair standard of living.

To remove the protection of the Davis-Bacon Act in order to permit competition on the basis of contractors' ability to hire minorities and women at lower wages would permanently relegate such workers to the lower rungs of the economic ladder and undermine much of the gains they have made over the last ten to fifteen years.

The Real Effect of Exempting Small Government Contracts From the Davis-Bacon Act Is to Deprive A Substantial Number of Workers of Its Protective Labor Standards.

What then would be the effect of exempting smaller government contracts from Davis-Bacon coverage? Although the impact of such an exemption is difficult to qualify precisely, it is clear that it would be significant.

Data from a 1974 inter-agency survey on the Davis-Bacon Act indicated that 24 percent of the workforce employed on government contracts were employed on contracts totalling $50,000 or less. Even allowing for a decrease in the number of workers affected due to inflation over the last 7 years, it is clear that the impact of even exempting contracts of $50,000 or less from Davis-Bacon coverage would be quite substantial.

Nevertheless, we have heard about various proposals to raise the jurisdictional threshold of the Davis-Bacon Act up to $25,000 or as much as $250,000. The impact of increasing the threshold of coverage to the various amounts discussed is graphically illustrated in the attached table.

Essentially, proposals to raise the threshold of coverage, regardless of the amount, raise the issue whether the Federal Government should support a double standard for its large and small construction contracts. Experience has shown that it is the workers on small contracts who are more likely to be adversely affected in the competitive procurement process unless protected by the Davis-Bacon Act. It is also likely that an increase in the Davis-Bacon coverage threshold would result in construction procurements being artificially fragmented in order to evade the higher threshold amount. For all these reasons, the Building and Construction Trades Department opposes any increase in the threshold of coverage by the Davis-Bacon Act.

It is the position of the Building and Construction Trades Department that better management in the Labor Department to insure the issuance of accurate and timely prevailing wage determinations and vigorous enforcement of the Act accompanied by better management by the federal contracting agencies of their procurement and enforcement responsibilities can make the Davis-Bacon Act work.

EFFECTS OF VARIOUS DAVIS-BACON THRESHOLD LEVELS

(based on 1974 DOL survey)

Percentages of Construction which would be Excluded

Threshold Level	% of Contracts	% of Employment	% of Contract Value
$ 5,000	10.3	3.1	0.1
7,500	18.1	5.9	0.2
10,000	24.8	8.4	0.4
25,000	42.3	16.8	1.0
50,000	54.9	24.0	2.0
100,000	66.1	32.1	3.6
500,000	86.1	53.9	13.2

Senator NICKLES. Your statement was that Davis-Bacon provides small business with a competitive advantage or equality as compared to big business; is that correct? I heard the word equality, and I think I heard advantage.

Mr. MUNDY. Under certain conditions, a small contractor—I, incidentally, am not foreign to this business. I'm 41 years in the construction industry myself. I'm a journeyman plumber and have worked successfully for a number of years at the trade before my local union membership decided to select me as the business agent, and from that I've ended here.

So the industry is not foreign to me, and the testimony I've heard from previous witnesses, particularly in the field of mechanical contracting, I'm very familiar with.

In a great many cases, there is a certain level of work which is best performed by small contractors. A small contractor generally has a closer interest in the way the work is performed. He more personally supervises it. As a result, there is a lot of work that is best performed by contractors who, one way or the other, eliminate some of the overhead costs by their own diligence, generally.

Senator NICKLES. I would certainly agree with that. I would say as a general rule, in comparing small businesses to larger businesses, your small contractor would probably have 20 or fewer employees, which comprise a large segment of the industry. Companies with more than 20 employees probably deal with a greater percentage of requirements under Davis-Bacon.

But a lot of the smaller companies, as we heard from testimony today, want to avoid Davis-Bacon contracts because of the difference between Davis-Bacon and non-Davis-Bacon projects. They felt, "No, our wages weren't the Federal prevailing wage," and they would have an advantage in competing with the bigger companies in the free market system, but under Davis-Bacon they were required to come up to their payroll.

So as a general rule most small businesses would have lower wage rates than some of the big construction companies, and if you take the lower wage rate away, they'd lose that advantage.

Mr. MUNDY. Senator Nickles, I'm totally confident that if you sought testimony here today from some extremely large contractors, you could find objections to the Davis-Bacon Act, objections to the threshold, objections to any number of things, objection to enforcement of safety provisions on the job, anything that you like.

And it's not confined to small contractors. Obviously, a businessman would like to be as free as he could be of any restraints on the way that he conducts his business, and there are some people capable of conducting their business in a reputable manner, free of any constraints.

But I would submit to you that the Davis-Bacon Act is not the only constraint that a great many of these contractors in the construction industry would like to avoid. There are a great many of them, and a great many of them that are necessary to protect the consumer, which in fact is you and I, the owners of these buildings.

Senator NICKLES. Going back to this idea of who has the competitive advantage and the Davis-Bacon Act impact, right now we are talking about small business. I understand you've participated in other committees relating to Davis-Bacon before.

If you remember, we've had a lot of impact, and I think there is some additional support on the Hill from a lot of people who say, well, no, I wasn't in favor of repealing Davis-Bacon, but, yes, I agree that there is some need to at least increase the threshold and possibly do some other things, some of which may have been proposed by the administration or others.

There has been a lot of testimony by a variety of people to the effect that this is more detrimental to the small business than it is to the large business.

Mr. MUNDY. Do I understand the question you're asking me is to whom I thought the Davis-Bacon was most detrimental?

Senator NICKLES. Yes.

Mr. MUNDY. I don't think it's detrimental to anyone. I submit that it's a benefit to the Federal Government, and I submit it's a benefit to the construction industry.

Senator NICKLES. How could it help the small businessman when they wouldn't bid on a Federal Government project because of Davis-Bacon, and as a result they have been foreclosed from $40 billion of construction projects to bid on?

Mr. MUNDY. Are you asking me why do I think they don't want to bid on the Federal projects?

Senator NICKLES. How does that help small business if you have so many of them that are turning away from it?

Mr. MUNDY. I noticed the testimony of one small businessman who thought it was beneficial to him. The testimony of some others indicated that it wasn't because away from the Federal projects, they, in fact, pay a wage which is less than that which is prevalent in that community and, as a consequence, I heard testimony that they had workers who were dissatisfied, although one of the contractors testified that he thought his workers were better satisfied at lesser wages. I find that difficult to understand, but perhaps he does have the kind of workers who like to work for less money.

But I don't hold it as detrimental to anyone. If you want to bid the job and you're willing to pay the prevailing wages, if you want to bid the job and you're willing to install the kind of equipment and the standard of materials that are called for in Federal specifications—which I incidentally would submit again, Senator, it's not only the Davis-Bacon Act that contributes to the quality of construction in the Federal sector.

Ordinarily, private construction does not have many, many, requirements that Federal construction does. There are exceptions to that, of course, but as a rule, work in the private sector does not have the detailed specifications of quality construction that is the rule in Federal construction.

Senator NICKLES. Let me carry that a little bit further. Would you say all Federal construction is done under a much higher quality of standard than private construction?

Mr. MUNDY. No, there are exceptions to any rule, Senator, but, as a rule, the highest quality construction done in the United States is that which is done on public works contracts. Again, that's not without exception.

Senator NICKLES. I would contest that to some degree, because I continually see federally funded public works projects that are in

very poor condition, sometimes in a very short period of time after construction.

I think it can be disputed about which type of construction, whether Federal or private, would come up with the most quality.

You made a statement that I'd like to clarify a little bit further. You said that on private projects they can consider everything, price, quality, delivery of service, et cetera, but for Federal, it's on price only. I think that was the statement that you made. What about the qualifications that are necessary before you can, quote, be a qualified bidder on a Federal project, the bonding, et cetera?

Mr. MUNDY. That's another requirement. That's a requirement in addition to price. You have to establish through a surety company that you are capable of being bonded, and you have to be able to take out insurance to cover your workers in the event of injury and so forth.

Senator NICKLES. So it's not just on the lowest bid?

Mr. MUNDY. Well, you couldn't go down on 14th Street and pick up somebody and have him submit a bid. There has to be some criteria of having established a business.

Senator NICKLES. OK. Do you think there should be any increase in the threshold?

Mr. MUNDY. I think the threshold might be well eliminated.

Senator NICKLES. So we should move the other way, then?

Mr. MUNDY. I see no reason to have workers work for less money because of the magnitude of the job. It is not consistent with other Federal policy.

We don't, for example, say that a farmer who has 4 cows has to sell his milk into a subsidized milk program for less money than the guy who has 200 cows, so why in the world should a worker be required or expected to work for less money because he's working on a smaller job than what another one would be?

Senator NICKLES. Are you familiar with Oklahoma?

Mr. MUNDY. I'm from California, Senator. I'm what's known as a CIO. That's a California-improved Okie, so, yes.

Senator NICKLES. We have a town in Oklahoma called Gotebo, with a population of probably 65 or something like that.

Mr. MUNDY. Yes.

Senator NICKLES. Anyway, they have a post office in Gotebo. Let's say they want to put some thermopane windows in the front door of that post office. There happens to be a little contractor in that neighborhood who could probably do it for $150. Then the Federal Government would come in and say, we have to take a wage survey, because there hadn't been one in Gotebo before. The closest area that had one was Oklahoma City. Should the Federal Government be coming in and telling that little contractor—the only one in town, incidentally—how much he should pay his people to put in that door?

Mr. MUNDY. Realistically, Senator, they're not going to, but I do submit that the person who installs that door should be entitled to the same compensation as somebody who was installing 44 doors on another office in Tulsa, Okla.

Senator NICKLES. I think it's an important question. Because of that Davis-Bacon requirement for the contractor in Gotebo, Okla., the following situation could very easily be true. Let's expand the

previous situation and say he's going to do the windows in the post office, so he now has a $2,000 project. Let's also say this contractor is doing business year-round, so he has a rate that he's paying his individual, but since he is now going to do a Federal project, the Federal Government would come in and say, "Whoops, that's our domain, and so instead of paying $7, you should pay $13."

Mr. MUNDY. What county is Gotebo in?

Senator NICKLES. I wish you hadn't asked that question.

The point I'm trying to make is that it seems absurd to carry this down to that level. We expect this year to be able to move some legislation that will help your people and the building trades, and that would accommodate and allow small businesses to be able to make their wage determinations like they do on 99 percent of all of their contracts, and exempt them from this needless hassle.

Mr. MUNDY. Senator, did you want me to try to answer the question about the door on the post office in Gotebo?

Senator NICKLES. I thought you had.

Mr. MUNDY. No, I can answer it, I think.

Senator NICKLES. Go ahead.

Mr. MUNDY. The Labor Department will conduct a survey in this unknown county in which Gotebo is located, and they'll establish what the prevailing wages are on the basis of that survey, and that will be the wage that will be established to install that door on that post office.

Senator NICKLES. How much do you think it might cost? Let's say the windows cost $2,000? How much do you think it's going to cost for the Government to compile this information, and to transmit it to this small contractor, who probably in this case is not big enough to fill out too many Federal forms? Where is the point where this is a worthwhile project? Are we going to spend $1,000 in taxpayers' funds?

Mr. MUNDY. Well, first of all, if the building is owned by the Postal Service, they're going to have some requirements as to the quality of the thermopanes that go in there. They're going to list a certain manufacturer's description of a thermopane, and they're going to insist that quality or equal be installed.

The contractor who is incapable of keeping records and following specifications is not going to be a very successful contractor in the Federal field, anyhow.

Senator NICKLES. That may be the reason why we had so many people up here today saying they wouldn't bid on Federal work.

Mr. MUNDY. Well, I don't believe that's what they were saying. I think they were saying they didn't want to bid on Federal work because they didn't want to pay the prevailing wages. I don't think any of these contractors said they didn't want to install the quality that's ordinarily required under the specifications on most Federal work. I think they were just saying they wanted to pay lesser wages.

Senator NICKLES. I think that could be debated.

Mr. MUNDY. Oh, I think it could, too, Senator. I suspect a great many contractors would rather bid a job requiring, for example, Crane or American Standard fixtures and then install a lesser quality. That's common in any business. But the fact is, ordinarily

on a Federal job, they don't take those chances, because there are penalties.

And I'm not condemning the industry—I've spent my lifetime in it—but it is an industry that's highly competitive, and the contractors ordinarily work on relatively modest margins, and if they miss a little something or another in estimating the cost of that project, they're in trouble.

There is a viewpoint out someplace or other that contractors ordinarily work on huge profit margins. The fact is, because a person can enter into large contracting projects with relatively modest capital, they ordinarily are capable of working on a very modest margin, so any little edge that somebody happens to get, the opportunity to substitute an inferior product will in fact be of significant impact on the bottom line when they get done.

And, of course, the ability to hire somebody for substantially less money would have the same effect.

Senator NICKLES. I'll carry it a little bit further. Im going back to a real example, we had the Farm Bureau and others testify about the idea that, "since they didn't take a survey in our neighborhood, they imported their wages." Do you think that should be? Here again, it's the Department of Labor telling those people in Gotebo what they have to pay their workers.

Mr. MUNDY. I have heard that, Senator. I've heard that wage rates are imported. In fact, that is not correct. The Labor Department conducts surveys county by county.

Now, there are some counties in the United States where there is no construction activity; there's no construction labor market. And there are certain skills, for example—it's highly unlikely that you would find an asbestos worker living in Gotebo, so in fact if you were going to insulate a boiler—and, in fact, the only boiler in Gotebo may be in that post office—so if you were going to insulate that boiler in Gotebo, you might have to go to a metropolitan area, which in fact would be the labor market for that work.

So using that instance, then it has been said that the practice is to import big-city wages into rural communities. That is not correct.

Senator NICKLES. I've seen places where it's happened, and certainly places in Oklahoma.

Mr. MUNDY. If you're talking about Gotebo, and you're going to bring somebody in to cover that boiler, you're going to import a metropolitan wage rate into there, because that's the people that install it. They happen to live in the cities. They don't live in Gotebo.

Senator NICKLES. Let's compare the example that was brought up earlier from an individual from Jenks.

Mr. MUNDY. From where?

That's that suburb to Gotebo, isn't it? [Laughter.]

Senator NICKLES. That's a suburb of Tulsa. He became frustrated and decided not to bid on Davis-Bacon projects and so the wages and the workers were now imported.

If you're a worker or representing workers, wouldn't that aggravate you to see a job that's in your neighborhood go out to the big-city boys?

Mr. MUNDY. Senator, we're accused of all kinds of things. One time we're accused of not letting anybody out of town come into town to work, and then the next time, because of circumstances, it's easier to say, "You're advocating importing workers into your own community." In fact, we're guilty of neither.

But the fact is, there are certain skills in the construction industry that are not likely to be found in small communities. For example, in addition to that insulater, I suspect if they wanted to put a marble front on the post office in Gotebo, they'd have a hard time finding a marble mason in that town. So they would have to then go where the labor market is to find the wage rates for a marble mason.

And there may in fact be only 75 of them in the State of Oklahoma, and there might be 30 of them living in Tulsa and 45 living in Oklahoma City. So as a result, when the Labor Department makes a survey of marble masons, and they try to make one in Gotebo or whatever that little suburban town was, they have a hard time finding marble masons to determine a wage rate for marble masons, so they go to what would be the labor market.

In any event, if you're going to have marble installed properly in that post office, either in Gotebo or the suburb, the logical thing to do would be to go to the labor market to get somebody who is skilled in it, much as I suspect there are other things that you can't do in Gotebo.

There are probably some fine people there, but I imagine there's a shortage of brain surgeons in Gotebo.

Senator NICKLES. There may possibly be.

Mr. MUNDY. So if you wanted to get your brain operated on, you'd probably have to go into Oklahoma City or Tulsa, or maybe—what was that suburb? I forget. [Laughter.]

Senator NICKLES. I'm just having some fun, and I appreciate your testimony.

Mr. Yellig, again, we appreciate your testimony. Your statement today was eloquent. I'm teasing you, but I do appreciate your coming and we look forward to working with you, and hopefully we can see some accommodation on both sides.

Mr. MUNDY. Well, let me congratulate you on the fine staff you have, Senator. I've known these fine people for many years. We've been adversaries for a good many years, but I know them.

Senator NICKLES. Well, thank you. I appreciate that.

Mr. MUNDY. OK. Thank you.

Senator NICKLES. We will keep the record open for 2 weeks for additional comments, if any of our panelists do have further comments, and also so that myself and other Senators can ask additional questions when necessary.

Thank you very much. The meeting is adjourned.

[Whereupon, at 12:35 p.m., the hearing was adjourned.]

APPENDIX

MUNICIPAL OFFICE
VILLAGE OF RUSSIA
INCORPORATED SHELBY COUNTY
P.O. BOX 405
RUSSIA, OHIO 45363

February 9, 1982

Honorable Don Nickles
Senate Office Building
Washington D.C. 20510

Dear Mr. Nickles:

We support your effort to raise the minimum level on the Davis-Bacon Act. It is high time the congressmen update this regulation especially for smaller muncipalities and schools.

We are a village of approximately 500 people and have approximately 500 children in our twelve grade school system. Both the village and school are penalized on each project they undertake because the minimum wage for funded projects is established by the Dayton rate which is usually more than twice the normal labor rate in our area.

Our village has a yearly budget of $25,000.00. You can imagine the problems we run into when trying to upgrade streets or trying to upgrade drainage systems which cost approximately twice this amount. Each major project we undertake costs us about twice as much as it should because of the above regulation. Contractors in the area have disgruntled employees because of the difference in union and nonunion jobs.

We think a raise in the minimum federally funded projects to $100,000.00 would be appropriate.

Thank you for your interest in this project. If we can be of further assistance, please advise.

Sincerely,

Village of Russia

Edward L Borchers

Edward L. Borchers
President of Council

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c.c.: Honorable Michael G. Oxley
Honorable John Glenn

Statement of
Associated Builders and Contractors, Inc.

Associated Builders and Contractors (ABC) is a national construction industry trade association representing nearly 17,000 firms nationwide. The members of ABC believe in the "merit shop" philosophy, a concept which calls for open competitive bidding with contract award to the lowest responsible bidder. Today, more than 60 percent of all construction in this country is done the merit (open) shop way.

Forty-five percent of ABC members across the nation regularly perform federally funded or assisted construction contracts which are, thus, subject to the Davis-Bacon Act. In 1980, 65 percent of ABC general contractors reported annual receipts of $1 million with only 24 percent having annual receipts of over $5 million. Of the subcontractor members, 23 percent reported annual receipts of between $500,000 and $1 million, and 25 percent reported an annual volume between $1 million and $2.5 million. Understandably, ABC members, predominantly small businesses, are well aware of the impact of the Davis-Bacon Act on the small business sector of the construction industry.

The contract amount which triggers the application of the Davis-Bacon Act is currently $2,000. This amount has remained unchanged since the 1935 amendments to the Act. This $2,000 trigger is ridiculously low, and deters many small contractors from bidding on federal work.

Raising the trigger for Davis-Bacon application will provide new opportunities for the beleaguered small contractor to bid on jobs at a time when his business opportunities are limited by general economic conditions.

Depressed construction activity and the resultant unemployment are serious problems facing smaller construction firms and the supplier tier for the construction industry, many of which are also small businesses. High interest rates and insufficient capital investment have contributed to this problem. Additionally, small businesses' survival will be threatened as long as large projected federal deficits continue to strain financial markets, keeping interest rates high and stifling economic growth. It is imperative during this recessionary period, when unemployment in the construction industry has reached 18.1 percent, for small contractors to have a more accessible marketplace in which to compete.

Therefore, the federal government should encourage small businesses to participate in federal procurement in order to maintain a productive and vibrant small business sector. The effect of raising the threshold for Davis-Bacon application could be very significant for the small contractor, but would not have a substantial impact on the total dollars spent for federal construction.[1]

The Davis-Bacon Act is particularly burdensome for the small contractor. For example, the determination of "prevailing" wages for various classifications of construction workers in a particular area, presents special problems to the small, nonunion construction contractor. Wage data, to determine prevailing wages, is requested by the Department of Labor (DOL) on a project-by-project basis. The contractor is asked to fill out a "WD-10" form for each project he has had during the past 12 months, and record the name, location, type and value of the project, percent of completion, and the classifications, hourly base rate and fringe benefit contribution paid to each employee during peak payroll weeks.

Small, open shop contractors are faced with a difficult and time consuming task in completing this form. In most merit shop companies, employees are paid various rates according to experience and productivity, and are not locked into a specific classification. Many are multiskilled, and capable of working on a variety

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[1] The testimony of Mr. Jack Downey at this hearing illustrates that by raising the Davis-Bacon application threshold to exempt contractors below $1 million, 90 percent of federal contracts let in FY 1981 would be relieved of Davis-Bacon application, while 85 percent of the labor dollars or forces would remain subject to Davis-Bacon.

of tasks. Filling out a survey form for each project worked for the previous year is a time consuming task. The data requested is simply not readily available, and many small contractors do not have the time or staff to collect and report the information. As a result, the data which DOL receives and relies on to determine prevailing wages is heavily skewed to reflect union rates.

Another problem for small contractors is the inability to use "helpers" on federal work. The helper classification is widely used by a small contractor on private work. Consequently, on federal work, employees who are normally classified as helpers and who are generally entry level employees learning a trade, must be paid the journeyman rate for the trade in which he is being trained. The alternative is to replace the employee with someone who has achieved journeyman status. As a matter of simple economics, the contractor will opt for the worker who is more worthy of the higher journeyman rate.

The federal government, in its procurement practices and policies, should encourage contractors to be competitive by utilizing an employee to the full extent of his attained skill level, and not at a fraction of his capacity by using a high paid journeyman to do what a helper is capable of doing. Unskilled or partially skilled workers can be trained to perform a particular task within a craft without being qualified in all skills of a fully qualified journeyman. Contractors should be urged to utilize any classifications of workers to perform tasks within their attained skill level. This provides more opportunity for underutilized minorities, females, handicapped, young workers and those traditionally limited in the working force. It provides an incentive and opportunity for ambitious workers to learn a craft, task by task, progressing on the basis of individual merit and at their own learning pace.

Although DOL has proposed to formally recognize the helper classification, a rigid, arbitrary ratio of helpers-to-journeyman has been imposed which will destroy the merit concept for the worker and the free enterprise incentives for the contractor.

Since the small contractor cannot use "helpers" on a project subject to Davis-Bacon, he must confront the rules and regulations pertaining to the use of apprentices and trainees. DOL has defined "apprentice" and "trainee" as only those individuals registered in programs approved by the Bureau of Apprenticeship and Training (BAT) or DOL-recognized State Apprenticeship Councils (SAC) and has historically supported a traditional apprenticeship approach to construction training. Other construction training programs such as those emphasizing task training or shortened apprenticeship periods do not receive approval or certification, and BAT/SAC has been reluctant to even register programs that operate unilaterally, or outside the collective bargaining arena. This has been particularly true in SAC states.

A small merit shop contractor may not have a training program of his own which is BAT or SAC approved. Thus, he will usually turn to his contractor-association, like ABC, for an apprenticeship training program for his employees. ABC has developed qualified training programs, but because of the aforementioned problems associated with getting program approval, ABC cannot get its innovative training programs approved in a number of SAC jurisdictions. What, then, is the small nonunion contractor to do?

Most likely, the small contractor will choose not to bid on a federal project subject to the Davis-Bacon Act: He cannot use "helpers," he cannot, in all practicality, use apprentices, and the paperwork and excessive wage requirements will force many small construction contractors from the federal marketplace.

If there is one thing that is clear, it is the fact that Davis-Bacon discourages many small contractors from competing on federal and federally assisted projects. When competition is discouraged, and the number of bidders for a project are reduced, the price is likely to be higher. Many contractors simply will not put up with the inflated wage requirements, the government red tape, voluminous paperwork, archaic work rules and job classifications, and thus, there are fewer contractors competing for the business. Those firms who have adjusted their operations to comply with the myriad of Davis-Bacon requirements understandably welcome a reduced number of competitors. The upshot of all this is that the taxpayer pays more.

A provision to raise the threshold for application of the Davis-Bacon Act will certainly make a difference to the viability of a small construction firm at a time of high unemployment, substantial reductions in job programs and when perpetually high interest rates are threatening the survival of this portion of our nation's business community. The small business sector of the construction industry must have easier access to the federal marketplace in order to survive today's economic conditions. By raising the threshold of Davis-Bacon to at least $1 million, many more small businesses will be encouraged to participate in federal procurement, which will enhance competition, reduce costs to the taxpayer, and provide new opportunities for the essential small business sector of the nation's economy.

Reply to: SMACNA, Capitol Hill
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February 18, 1982

The Honorable Don Nickles, Chairman
Senate Small Business
Subcommittee on Government Procurement
424 Russell Senate Office Bldg.
Washington, D.C. 20510

Dear Chairman Nickles:

It is my understanding that the Subcommittee on Government Procurement of the Senate Small Business Committee has agreed to receive further public comment with respect to the minimum threshold provision in the Davis-Bacon Act. This is the same topic which was explored in your February 2nd hearing. Let me say at the outset that as a small businessman I certainly appreciated the opportunity to testify before the Subcommittee on that date even though our respective views on the subject are clearly divergent.

As the 1982 President of the Sheet Metal and Air Conditioning Contractors' National Association, Inc. -- a non-profit trade association of some 2,700 sheet metal contractors from all areas of the country — I have had the pleasure to meet hundreds of second, third and even fourth generation sheet metal contractors who take an enormous amount of pride in their craft. And why not? Collectively they have transformed and refined the master skills of their grandfathers turning a relatively obscure trade into a $7,000,000,000 industry. The sheet metal industry is no longer a group of itinerant, piecework artists designing ornamental objects and an occasional residential roofing structure. Rather it is a well organized infra-structure of engineers, manufacturers and installers of sophisticated component heating-ventilating and air conditioning systems throughout the world. The sheet metal industry has made this progression in a uniquely American fashion — by working hard, applying traditional skills to new technological frontiers, employing and training the best craftsmen and mechanics, and by nurturing a registry of client interests that runs the gamut from the next door neighbor's heat pump to the Hannaford Nuclear Power Plant and, yes, even the new Senate Office Building.

This progress has not come quickly or easily. These positive results have created both a "new" industry and a "new" clientele of satisfied customers who enjoy the tangible comforts of quality workmanship. And since the passage of the Davis-Bacon Act in 1931, the United States Government has been perhaps the greatest beneficiary of this relationship. More than any other client group it has received quality goods and services for a fair price. Buildings have been constructed with a distinct measure of craftsmenship by qualified contractors and trained, experienced workers. Clearly, the government interest has been well served.

But all that is history. Change is inevitable. SMACNA does not believe the Davis-Bacon Act should be immutable or immune from administrative streamlining or reform. SMACNA does believe however that the objectives of the Act -- protection of the working tradesman and respectable contractors who construct long-lasting, quality buildings — must remain unchanged. The Act sought to minimize "fly by night" operations who paid substandard wages to unskilled people, ignorant of the difference between a wall stud and a ceiling joist. That notion is as valid today as it was in 1931.

The real issue here is the quality of workmanship and the financial savings which accrue to a project over a reasonable period of time. There is no doubt that some money could be saved in the short term if one elects to abandon the use of the skilled craftsman. However, this also means forfeiting the benefits of years of training and craft expertise. The sheet metal industry for example has an established history of supplying expert craftsmen in the trade. Apprenticeship programs are generally of a 4 to 5 year duration. During this time the apprentice receives extensive training in all phases of the sheet metal industry, covering everything from calculus and trigonometry to hydronic solar systems and industrial air pollution control. This training is paid for by the contractors and supervised by labor and management to assure the craftsman receives the highest quality training and experience available. No such training can be found anywhere else. It is precisely this quality of expertise that leads directly to the second part of equation: long term financial savings. The skills of these craftsmen ensure the highest quality of workmanship which thereby results in dramatically reduced maintenance and service costs. It makes plain sense that when things are done right the first time it costs less in the long run. Taxpayers want and deserve lower costs and high quality work. An assurance of quality may cost a bit more initially but the security and long term savings from a solidly constructed building compensate for it.

A building should be solid, functional and safe - qualities that are guaranteed when skilled labor is utilized. Let's face it, you wouldn't want an unskilled mechanic lacking in training, experience and schooling to work on your car. Nor would you want an untrained doctor to operate on your heart, or an inexperienced pilot to fly your plane. The same should be true with those who construct our buildings. Taxpayers have the right to expect the quality and safety which only comes from the skilled construction professional. Any attempt to repeal (or emasculate the Davis-Bacon Act by way of "reform") would only serve to increase the physical and financial risks to the government and the public.

In conclusion, we urge the Committee to look at the large, long term picture with respect to Davis-Bacon. Repeal efforts, or reform which in effect constitutes such repeal, should look not only at initial construction costs but the skill, credentials and experience of firms doing such work as well. Taxpayers clearly deserve an absolute assurance that the buildings their government constructs are built with the highest caliber craftsmen available. To completely ignore "quality and qualification" at the expense of small short term savings will eventually prove counterproductive. Substantial reform will merely have the affect of (a) jeopardizing long term financial savings and (b) comprising the guarantee of structural integrity. The Davis-Bacon Act has, in the main, worked well in these two vital respects, although the Subcommittee has concentrated on neither. In fairness, we believe the Subcommittee is obligated to consider the entire Davis-Bacon prospectus. Consequently, we submit this supplementary statement for the record. We would appreciate your serious consideration of our views. Thank you.

Sincerely,

William M. Chapple

William M. Chapple
SMACNA President

WMC/amj

INDEPENDENT ELECTRICAL CONTRACTORS INC.
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STATEMENT OF THE INDEPENDENT ELECTRICAL CONTRACTORS, INC. ON THE EFFECTS OF THE DAVIS-BACON ACT ON SMALL BUSINESS

THE INDEPENDENT ELECTRICAL CONTRACTORS, INC. (IEC) IS A NATION-WIDE ASSOCIATION OF ELECTRICAL CONTRACTORS THAT ENCOMPASSES 22 LOCAL CHAPTERS AND OVER 500 FIRMS. IEC MEMBERS BELIEVE IN FAIR AND OPEN COMPETITION WITHIN THE ELECTRICAL CONSTRUCTION FIELD, EQUITABLE TREATMENT OF THEIR EMPLOYEES AND HONEST DEALINGS WITH THEIR CUSTOMERS AND CLIENTS. ONE OF THE AREAS THAT HAS BEEN OF THE MOST CONCERN OVER THE PAST SEVERAL YEARS FOR OUR ASSOCIATION HAS BEEN THE IMPACTS OF THE FEDERAL DAVIS-BACON ACT ON THE ABILITY OF OUR MEMBERS TO BID AND TO DO GOVERNMENT CONSTRUCTION WORK. IN ADDITION TO THE STATEMENTS OF THREE IEC MEMBERS, AND ONE NON-MEMBER, WHICH ARE ATTACHED TO THIS STATEMENT, THE INDEPENDENT ELECTRICAL CONTRACTORS WOULD LIKE TO POINT OUT SOME OF THE AREAS OF THE FEDERAL DAVIS-BACON ACT THEY FIND TO BE THE MOST BURDENSOME FOR SMALL AND MEDIUM-SIZED BUSINESSMEN. IEC WOULD LIKE TO MAKE COMMENT ON THREE SPECIFIC AREAS OF THE FEDERAL DAVIS-BACON ACT THAT HAVE STOPPED ITS MEMBERS FROM BIDDING ON FEDERAL WORK. THESE AREAS ARE: 1) THE DEFINITION OF PREVAILING WAGES, 2) THE USE OF HELPERS ON CONSTRUCTION SITES, AND 3) THE BURDENSOME PAPERWORK REQUIRED BY CURRENT DAVIS-BACON REGULATIONS.

DEFINITION OF PREVAILING WAGES

PERHAPS THE MAJOR PROBLEM THAT IEC MEMBERS HAVE WITH THE DAVIS-BACON ACT, AND SUBSEQUENTLY WITH DOING FEDERAL WORK, IS THE FACT THAT

THE TERM "PREVAILING WAGE" HAS NEVER BEEN ADEQUATELY DEFINED THROUGHOUT THE YEARS OF THE DAVIS-BACON ACT. IN ADDITION, IT IS THE BELIEF OF OUR ASSOCIATION THAT THE DETERMINATION OF THESE SO-CALLED PREVAILING WAGES ON AN AREA BY AREA BASIS HAS NEVER BEEN ADEQUATELY UNDERTAKEN. THE CURRENT "30%" RULE IS NOT AN APPROPRIATE METHOD OF DETERMINING PREVAILING WAGES, AND NEITHER WILL BE THE PROPOSED 50% DETERMINATION THAT HAS BEEN PUT FORWARD BY THE ADMINISTRATION. IEC RECOMMENDS AND FIRMLY BELIEVES THAT THE ONLY TRUE WAY TO DETERMINE PREVAILING WAGES IN AN AREA AFFECTED BY THE DAVIS-BACON ACT IS TO USE A "WEIGHTED AVERAGE" OF THE VARIOUS WAGES. THIS WE FEEL WOULD MOST ACCURATELY REFLECT THE WAGES BEING PAID FOR CONSTRUCTION WORKERS IN A GIVEN AREA. IT HAS BEEN CONSISTENTLY SHOWN OVER THE PAST FEW YEARS THAT THE CURRENT METHOD OF DETERMINING DAVIS-BACON PREVAILING WAGES HAS CAUSED HUNDREDS OF MILLIONS OF DOLLARS OF OVERRUNS ON FEDERAL PROJECTS. IN 1979 THE GENERAL ACCOUNTING OFFICE CONCLUDED THAT THE EXISTING METHOD OF DETERMINING DAVIS-BACON WAGES, AND THE RESTRICTIONS PUT ON FEDERAL CONTRACTORS BY THE DAVIS-BACON ACT IN THE AREA OF WAGE DETERMINATIONS, WAS INFLATIONARY, UNNECESSARY AND NOT BEING DONE IN ACCORDANCE WITH THE ORIGINAL INTENT OF THE DAVIS-BACON ACT. IN SUMMATION, THE INDEPENDENT ELECTRICAL CONTRACTORS FEELS THAT ONLY BY CHANGING THE METHOD OF DETERMINING PREVAILING WAGES TO THE "WEIGHTED AVERAGE" METHOD CAN SMALL BUSINESSMEN LEGITIMATELY EXPECT TO BE ABLE TO BID ON FEDERAL WORK UNDER THE NORMAL WORK PATTERNS AND WAGE PATTERNS ESTABLISHED BY THEIR COMPANIES.

HELPER CLASSIFICATION

ANOTHER AREA OF THE DAVIS-BACON ACT THAT IEC FEELS IS BURDENSOME ON SMALL BUSINESSES IS THE TYPE OF CLASSIFICATIONS USED FOR WORKERS ON

Davis-Bacon jobs. One of the standard classifications of workers on a construction site is that of helpers. Helpers on job sites do manual labor, and, in many cases have non-technical skills. The helper classification, has been, traditionally, an area that was well suited for contractors to use as introductory level positions for minorities, disadvantaged workers, and women. However, under the restrictions and current intrepretation of the Davis-Bacon Act these types of positions would have to be paid at a much higher wage level than is warranted by the productivity of the people in these positions. It is impossible for electrical contractors to pay the same or nearly the same wages to unskilled laborers on a job site as they are paying to trained, certified journeyman electricians. It becomes impossible for contractors to adequately man job sites with the right types of people under the current restrictions.

Therefore, IEC strongly recommends that helper classifications be incorporated onto job sites that fall under the restrictions of the federal Davis-Bacon Act. This would allow the projects being built with federal funds to be built at a more reasonable cost, and also to allow for the employment of more minorities, disadvantaged workers, and women on the job sites. This is specifically the type of work that the original Davis-Bacon Act was trying to create during the 1930's when the Act was passed. IEC feels that it is past time for the Act to try to meet some of its intended purposes.

Additionally, one of the problems that IEC sees with the helper classification problem is the worker's ratio that is required on Davis-Bacon projects. It is the opinion of IEC that these ratios

CANNOT PROPERLY BE ESTABLISHED ON AN "ACROSS THE BOARD" BASIS FOR MOST CONSTRUCTION PROJECTS. DIFFERENT COMPANIES NEED, AND USE, DIFFERENT RATIOS OF HELPERS TO CRAFT PERSONS DEPENDING UPON THEIR KNOWLEDGE OF THE ABILITIES OF THE DIFFERENT PEOPLE ON THOSE CREWS. FOR THE FEDERAL GOVERNMENT TO DICTATE TO AN ELECTRICAL CONTRACTOR, OR ANY OTHER CONTRACTOR, WHAT TYPES AND RATIOS OF WORKERS ARE NEEDED TO ADEQUATELY COMPLETE THE JOB FOR WHICH THEY ARE BEING COMPENSATED IS LUDICROUS. ONLY ESTABLISHED COMPANY PROCEDURES AND POLICIES CAN TRULY DICTATE THE CORRECT AMOUNT OF HELPERS, JOURNEYPERSONS AND APPRENTICES ON A PARTICULAR JOB SITE FOR A PARTICULAR CONTRACTOR. THE INDEPENDENT ELECTRICAL CONTRACTORS RECOMMENDS THAT THE DAVIS-BACON ACT BE AMENDED SO THAT THERE IS A MUCH MORE FLEXIBLE POLICY TOWARD ESTABLISHING RATIOS ON PARTICULAR JOB SITES. FINALLY, ON THE MATTER OF JOB CLASSIFICATIONS, IEC BELIEVES THAT SMALL BUSINESSMEN CANNOT AFFORD TO WORK ON FEDERAL PROJECTS IF IT MEANS DISRUPTING THEIR NORMAL PATTERN OF HIRING, TRAINING AND PLACING WORKERS ON A JOB SITE.

PAPERWORK BURDENS ON SMALL BUSINESSMEN

ALTHOUGH THE ADMINISTRATION HAS RECOMMENDED THE ELIMINATION OF THE WEEKLY REPORTING SYSTEM ON DAVIS-BACON PROJECTS, THE INDEPENDENT ELECTRICAL CONTRACTORS STILL BELIEVES THAT THE PAPERWORK BURDEN FOR CONTRACTORS DOING DAVIS-BACON WORK IS JUST TOO GREAT TO ATTRACT MANY SMALL TO MEDIUM-SIZED BUSINESSES. SINCE THE SMALL ELECTRICAL CONTRACTOR, WHO IEC REPRESENTS, HAS ON THE AVERAGE TWO TO THREE OFFICE WORKERS, IT IS IMPOSSIBLE FOR THOSE COMPANIES TO TAKE ON WORK WHICH WILL CAUSE A DISPROPORTIONATE AMOUNT OF OFFICE TIME TO BE SPENT FILING GOVERNMENT FORMS AND RECORDS. MOST CONTRACTORS WHO ARE

AWARDED FEDERAL DAVIS-BACON WORK HAVE ESTABLISHED THEMSELVES AS HONEST BUSINESSMEN WITH GOOD BUSINESS PRACTICES AND WITH LONG HISTORIES OF COMPLIANCE WITH ALL FEDERAL REGULATIONS. IT DOESN'T SEEM NECESSARY TO ADD ON ADDITIONAL FORMS AND ADDITIONAL BURDENS OF DOCUMENTATION TO THESE CONTRACTORS WHO HAVE ESTABLISHED THEMSELVES AS CREDITABLE BUSINESSMEN. RATHER, IEC FEELS THAT THE DEPARTMENT OF LABOR COULD AND SHOULD RELY MORE HEAVILY ON EXISTING BACK-UP DATA AS TO THE MAKE-UP AND QUALIFICATIONS OF THE WORK FORCES OF SUCCESSFUL BIDDERS ON FEDERAL WORK. WHILE THE ENTIRE AREA OF DOCUMENTATION OF WAGES, HOURS, FAIR EMPLOYMENT STANDARDS AND RELATED ITEMS IS IMPORTANT TO THE SUCCESSFUL CARRYING-OUT OF GOVERNMENT CONTRACTS UNDER THE GUIDELINES SET FORTH NOT JUST BY THE DAVIS-BACON ACT BUT BY OTHER LEGISLATIVE ENDEAVORS OVER THE PAST 50 YEARS, IEC STILL BELIEVES THAT SUCCESSFUL BIDDERS ON FEDERAL CONTRACTS SHOULD NOT HAVE TO RE-ESTABLISH THE CREDENTIALS OF THEIR COMPANY EACH TIME THEY ARE AWARDED A FEDERAL PROJECT.

IN CONCLUSION, THE INDEPENDENT ELECTRICAL CONTRACTORS STANDS FIRMLY BEHIND ITS CONVICTION THAT THE FEDERAL DAVIS-BACON ACT IS OUTMODED, INFLATIONARY AND IN ALMOST EVERY CASE COUNTER-PRODUCTIVE TO THE GOVERNMENT'S INTENT OF ATTRACTING SMALL AND MEDIUM-SIZED LOCAL BUSINESSES TO DO FEDERAL WORK. IEC WHOLEHEARTEDLY ENDORSES THE CONCEPT OF THE REPEAL OF THE FEDERAL DAVIS-BACON ACT AND, IN LIEU OF REPEAL OF THE ACT, SUPPORTS ITS STATED POSITIONS FOR REFORMING THE EXISTING LEGISLATION. WE APPRECIATE THE OPPORTUNITY TO EXPRESS THE VIEWS OF OUR MEMBERS AND WOULD WELCOME ANY FURTHER OPPORTUNITIES TO PROVIDE INFORMATION ABOUT THE EFFECTS OF THE DAVIS-BACON ACT ON SMALL BUSINESSES.

DIAMOND ELECTRIC COMPANY
P.O. BOX 15846
TULSA, OKLAHOMA 74115
(918) 663-8044

Feb. 1, 1982

To The Congressional Members:

Re: The Davis-Bacon Act

Diamond Electric Company of Tulsa, Oklahoma, a merit shop, entered into a contract with Stevco-United, the general contractor, for the electrical work on a 150 unit apartment building. The title of the project is Housing For The Elderly located at 6565 South Newport Avenue in Tulsa, Oklahoma. This is F.H.A. Project #221(d)4(d)118-35-108 and H.U.D. Project #OK-56-001-002. The work on this six story building began on March 5th, 1980. The work was done according to the plans and specifications prepared by Joseph R. Koberling, A.I.A. and Associates architectural firm.

Diamond Electric Company placed employment advertisements in the Tulsa newspapers. Diamond Electric also contacted National Electrical Contractors Association and Associated Builders and Contractors in an attempt to find qualified journeyman electricians in the Tulsa area as well as in surrounding states and in depressed areas.

The Tulsa market is now and has been booming with Oral Robert's City of Faith Hospital and millions of square feet of office buildings being built. Most of this work is being done by merit electrical contractors, making the availability of electricians non-existent. In May of 1980, journeymen electricians in Tulsa were all working, with the exception of the union electricians, who would not work for a merit contractor. Recruitment must be made and has been tried with little success in bringing journeymen electricians to Tulsa from depressed areas such as Detroit and Kansas City. Very few journeymen electricians applied but those who did were hired.

All apprentice electricians that Diamond Electric employed were placed in the indentured program of Associated Builders and Contractors, which is a four year, federally registered program.

Diamond Electric Company estimated 5,833 man hours to complete the project at $14.00 per man hour for a total of $81,622.00. In order to get enough available man power to complete the job in the time frame of H.U.D. and the general contractor, and because of the unavailability of journeymen electricians, Diamond Electric had to employ twice the number of apprentice electricians, who were for the most part, in their first and second year of the program. The actual number of man hours used on the project to this date is 9,380 at an average cost per hour of $11.56 for a total of $108,432.80. This is a loss of $26,810.80.

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The U.S. Department of Labor has reviewed this project and demands that Diamond Electric pay these apprentice electricians journeymen's wages in the amount of $22,000.00 because Diamond Electric did not have the correct ratio of journeymen electricians to apprentice electricians.

The U.S. Department of Labor also determined which apprentices would be paid the journeymen's wages to meet the required ratio of journeymen to apprentices. This was determined from a handbook which did not take into consideration which apprentice was more qualified. Diamond Electric was already paying two or three of the more experienced apprentices $2.00 to $3.00 per hour above the apprentice rate. If the U.S. Department of Labor had chosen these apprentices to be paid the journeymen's wages, the $22,000.00 could have been reduced by $6,000.00.

Section 7.1.1 of the specifications states that "The contract shall be governed by the law of the place where the Project is located." The City of Tulsa requires that all journeymen electricians be licensed through testing. Apprentice electricians are not licensed and therefore Diamond Electric should not be required to pay them the journeymen's wages as the U.S. Department of Labor is demanding.

The original estimate of 5,833 man hours was taken from the National Electrical Contractors Association's Manual Of Labor Units. Diamond Electric Company used this manual exclusively. Last year Diamond completed approximately 43 projects and never exceeded the labor hours by more than 5%. Most projects were completed with a 12% labor savings.

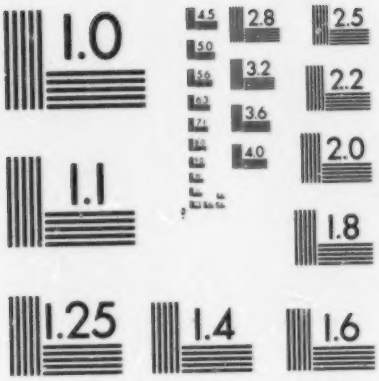
By not being able to hire journeymen electricians Diamond Electric has exceeded its estimated labor cost by $26,810.80. Now the U.S. Department of Labor wants to add to that loss, an additional $22,000.00 for a total loss of $48,810.80.

It is utterly and absolutely ridiculous to pay an unqualified apprentice electrician a journeyman electrician's wages just to maintain some random ratio that someone has instituted by the Davis-Bacon Act.

Respectfully Yours,

Tracy Ree

Tracy Ree, President
Diamond Electric Company



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